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 for the State of New Jersey, THE NEW
 JERSEY OFFICE OF THE PUBLIC
 DEFENDER, ISSIAHA BIVENS, and
 TYLEEB REESE,

Plaintiffs,

v.

COUNTY OF MERCER AND ITS
 BOARD OF CHOSEN FREEHOLDERS,
 and COUNTY OF HUDSON AND ITS
 BOARD OF CHOSEN FREEHOLDERS,

Defendants.

Superior Court of New Jersey
 Mercer County
 Law Division

Docket No.:

Civil Action

**VERIFIED COMPLAINT IN LIEU OF
 PREROGATIVE WRIT PER R. 4:69 AND
 DEMAND FOR DECLARATORY AND
 INJUNCTIVE RELIEF UNDER N.J.S.A.
 10:6-2 AND 42 U.S.C. §1983**

Plaintiffs Joseph E. Krakora, New Jersey Public Defender, the New Jersey Office of the Public Defender, Issiaha Bivens and Tyleeb Reese by way of Verified Complaint in Lieu of Prerogative Writ and demand for injunctive relief under State and Federal civil rights statutes, say:

PRELIMINARY STATEMENT

1. This action is brought to enjoin Defendant County of Mercer from closing substantial portions of the Mercer County Corrections Center (MCCC) on or before January 1, 2020, and from re-locating all adults who are now detained or incarcerated at the facility to the Hudson County Correctional and Rehabilitation Center (HCCC), at substantial distance from their counsel, their communities of residence, and the Mercer County Criminal Courthouse. This ill-conceived plan,

which lacks regulatory, statutory, and legal authority, will cause untold delays and disruptions to the operations of an already overtaxed court system. It will also prevent Plaintiff Joseph E. Krakora, and his office, the Office of the Public Defender (OPD), from meeting their statutory obligations of providing indigent criminal defendants of Mercer County with effective assistance of counsel. Most importantly, unless this Court intervenes, Plaintiffs Issiaha Bivens and Tyleeb Reese, along with hundreds of other present and thousands of future inmates currently housed at MCCC, will be deprived of their constitutionally-protected rights to effective assistance of counsel, a speedy trial, due process and equal protection of the law.

The Defendant County of Mercer has determined, through its Board of Chosen Freeholders, to transfer Mercer County inmates to a facility 60 miles from the Mercer County Criminal Courthouse and the Mercer County regional Office of the OPD, and passable only through major, and often congested, arteries of New Jersey's interstate highway system. Even taken alone, the sheer distance and travel time would make it exceedingly difficult for attorneys from the Mercer County OPD to maintain the regular, in-person attorney-client consultation that is vital and necessary to preparing a criminal offense. But when coupled with the already limited time OPD attorneys have to visit their clients in the MCCC—which is now only possible due to its close proximity to their office and the courthouse—and the existing long wait times in Hudson's facility due to Defendant County of Hudson's deficient policies and lack of visitation space, practically speaking, OPD attorneys may be unable to see their clients at all as they await trial or sentencing in Hudson County. Furthermore, the commuting time and distance to Kearny, not to mention expense, will make it virtually impossible for Mercer County inmates to see family, friends and loved ones, who not only provide important emotional support during the crisis of facing a serious criminal charge, but who also assist in the preparation. The transfer of Mercer

inmates, en masse, will also result in prolonged incarceration pre-trial.

Thus, the relocation of those detained pre-trial and those who have been convicted, but await sentencing, will deny them of their Sixth Amendment rights under the United States Constitution and the corresponding rights under Article One, Paragraph Ten of the New Jersey Constitution. The relocation will also infringe upon the rights of all inmates to due process and equal protection of the law, under Article One, Paragraph One of the New Jersey Constitution, and the Fifth and Fourteenth Amendments to the United States Constitution.

Plaintiffs therefore move to enjoin the closing of significant portions of the MCCC and the attendant mass transfers of Mercer County inmates, including those detained pre-trial, those convicted and awaiting sentences, and those serving sentences, to distant Hudson County.

JURISDICTION AND VENUE

2. Plaintiffs bring this action in lieu of a Prerogative Writ under Rule 4:69 and for injunctive and equitable relief under the New Jersey Civil Rights Act, N.J.S.A. 10:6-2(c), and the Federal Civil Rights Act, 42 U.S.C. §§1983 and 1988, since the action complained of is taken by a local political subdivision under color of state law, and such conduct by the Defendants subjects or will subject the Plaintiff inmates to deprivations of rights, privileges and immunities secured by the New Jersey Constitution and the United States Constitution.

3. Venue is proper in this County, as Defendant County of Mercer is a person and an entity and thus properly a party to this action, and Mercer County is the place where the causes of action arise.

PARTIES

4. Plaintiff Joseph E. Krakora is the Public Defender for the State of New Jersey, appointed by the Governor and serving pursuant to legislative enactment codified at N.J.S.A. 2A:158A-1 et seq.

As the Public Defender, Mr. Krakora is statutorily, constitutionally, and professionally obligated to represent indigent defendants charged with indictable crimes under the New Jersey criminal statutes, to allocate and manage resources for payment of said defense, and to represent indigents in court proceedings in any matter relating to an action pending in a court of criminal jurisdiction of this state.

5. Plaintiff Krakora is likewise charged with providing for and safeguarding the right of indigent accused persons to constitutionally-effective assistance of counsel, within the meaning of the Sixth Amendment to the United States Constitution and Article One, Paragraphs One and Ten of the New Jersey Constitution. As a part of such duties, Plaintiffs Krakora and New Jersey Office of the Public Defender have responsibility for safeguarding the right to effective assistance of counsel of inmates housed at the MCCC while awaiting trial on charges pending in the Superior Court of New Jersey for Mercer County. Plaintiffs Krakora and New Jersey Office of the Public Defender are also responsible for safeguarding the same rights for individuals who have been convicted, but not yet sentenced on matters in the Superior Court of New Jersey for Mercer County.

6. Plaintiff New Jersey Office of the Public Defender (OPD) is an independent agency of the State of New Jersey, organized and existing pursuant to legislative enactment codified at N.J.S.A. 2A:158A-1 et seq., charged with the duty to represent indigents charged with indictable crimes in the Superior Court of New Jersey, including without limitation in trial-level, appellate and post-conviction litigation. Joseph E. Krakora is the Public Defender and the appointed head of the OPD. Plaintiffs Krakora and the OPD sue on behalf of all inmates detained pre-trial, those awaiting sentencing, and those serving sentences, whose rights the Defendants' policy will violate.

7. Plaintiffs Issiaha Bivens and Tyleeb Reese, aged 20 and 37, respectively, are inmates who at the MCCC. They are each detained on pending indictable charges before the Superior Court of

Mercer County and are awaiting trial or other disposition of their criminal charges.

8. Defendant County of Mercer is a political subdivision of the State of New Jersey that owns and operates the MCCC. County of Mercer is a “person” within the meaning of the Federal Civil Rights Act, codified at 42 U.S.C. § 1983, and the New Jersey Civil Rights Act, codified at N.J.S.A 10:6-1 to -2. All of its actions constitute state action under color of state law.

9. Defendant Mercer County Board of Chosen Freeholders is the legislative and governing body of the County of Mercer with power and control over the MCCC, and with the policy-making authority to provide for the housing and detention of persons charged with a crime in the Superior Court who are detained as they await disposition of their charges, and those serving sentences of less than one year. Its principal place of business is located at 640 North Broad Street, Trenton, New Jersey, in the County of Mercer, State of New Jersey. This Defendant has made the decision to close significant portions of the MCCC and to transfer all, or nearly all, of its inmates to the Hudson County Correctional Center (HCCC). All of its acts and omissions are taken under color of state law, but without seeking the approval of the Department of Corrections or any court.

10. Defendant County of Hudson is a political subdivision of the State of New Jersey that owns and operates the HCCC. The County of Hudson is a “person” within the meaning of the Federal Civil Rights Act, codified at 42 U.S.C. §1983, and the New Jersey Civil Rights Act, codified at N.J.S.A 10:6-1 to -2. All of its actions constitute state action under color of state law.

11. Defendant Hudson County Board of Chosen Freeholders is the legislative and governing body of the County of Hudson with power and control over its own jail. Its principal place of business is located at 567 Pavonia Avenue, Jersey City, New Jersey, in the County of Hudson, State of New Jersey. This Defendant has made the decision to receive inmates from the MCCC at substantial geographic distance from both the Mercer County Criminal Courthouse and the Mercer

County Office of the Public Defender, both of which are located in Trenton. All of its acts and omissions are taken under color of state law, in concert with Defendant County of Mercer.

FACTUAL BACKGROUND

Mercer County Office of the Public Defender's Representation of MCCC Inmates

12. At any given time, the MCCC houses several hundred inmates who await trial or other disposition of indictable criminal charges in the Mercer County Criminal Courthouse, as well as numerous persons who are awaiting sentencing and/or have already been sentenced and are serving sentences of less than one year.

13. A substantial majority of the individuals currently detained at the MCCC are represented by either an OPD staff attorney or one of the pool of qualified private counsel that the OPD retains and appoints to represent such clients pursuant to N.J.S.A. 2A:158A-1 et seq.

14. Currently, the total census of the MCCC is 336 individuals.

15. 147 of these individuals are pre-trial detainees represented by OPD staff attorneys.

16. Plaintiffs Bivens and Reese are among the pre-trial detainees represented by OPD staff attorneys.

17. The MCCC is located at 1750 River Road (County Route 29) in Hopewell Township, New Jersey, approximately 12 miles from the Mercer County Criminal Courthouse, which is located at 400 South Warren Street in Trenton, New Jersey.

18. Plaintiffs Krakora and the OPD operate a regional Mercer County Office of the Public Defender, located at 210 South Broad Street, Trenton, New Jersey, approximately 12 miles, and a 15- to 20-minute drive, from the MCCC.

19. The Plaintiffs and the regional office of the OPD have as a policy and practice regular in-person contact between attorneys and clients in MCCC custody, principally through in-person

contact at the MCCC's visiting area. OPD staff attorneys and their investigators routinely visit with, interview, and consult with their assigned clients (who are detained pre-trial, during trial, and if convicted, until sentencing at the MCCC) in conference space at the jail facility set aside for such professional visits. Pool attorneys/outside assigned counsel are obligated to follow the same practice.

20. OPD and assigned pool attorneys have no opportunity for in-person "contact" consultations with their clients in the courthouse itself, because counsel are not allowed into the detention areas. A very small number of visiting windows are available in the courthouse, but oftentimes, they are completely unavailable, because the windows are shared by criminal defendants in every courtroom of the courthouse, and due to the significant number of individuals who wish to use them at any given time. In the limited instances where a visiting window is available, counsel's time for discussion is brief because of the press of business and the demands for their presence in court. Furthermore, even when available, the visiting windows do not allow for the passing back and forth of discovery or documents, and there is no provision for the review of digital materials. Thus, for substantive consultation with detained clients, assigned counsel are wholly dependent upon visitation times at the MCCC.

21. The Mercer County Office of the Public Defender has 17 attorneys, 10 of whom have regular adult felony caseloads, with the remaining attorneys covering various special assignments such as drug court, juvenile defense, and pre-indictment conference court. The average caseload of each adult trial attorney in the Mercer County office is over 100 matters, including close to 75 indicted cases at any one time. Historically and currently, a substantial number of those clients are adult pre-trial detainees, until now housed at the nearby MCCC.

22. Given their high caseloads, and the demands that come with them both in and out of court,

staff attorneys at the Mercer County OPD struggle to find time to visit clients housed at this current jail facility.

23. In-court time absorbs a high percentage of each attorney's working hours. Many attorneys, for example, are obligated to be in court all day twice a week (generally Monday and Friday) and to appear in court for various hearings and motions, or for trial, during the other three days of the week (Tuesday through Thursday). For those OPD attorneys who are assigned to handle detention hearings daily, they must use the time after court hearings each day to visit clients in jail, along with their other responsibilities.

24. These in-court hours leave Mercer OPD attorneys with small windows of office time for a variety of tasks that are also critical to effectively representing their clients, including: written correspondence with clients, courts, and prosecutors; legal research; drafting motions, briefs, and other court submissions; reviewing thousands of pages of paper discovery, as well as hours of digital discovery; meeting with clients who have been released; and various administrative tasks.

25. Between these in-court and out-of-court demands, Mercer OPD attorneys already have little time to visit their clients detained in the MCCC. And when they can make time, they typically visit with multiple clients in each jail visit, totaling several hours. These meetings run the gamut, from reviewing discovery to conferring on motions, to obtaining information for potential investigation, to discussing plea negotiations. Frequently, attorneys must add additional clients at the last minute because they receive new information from the State, or because the client has requested a meeting, often because a client has important new information regarding their case, or is interested in possibly resolving it; a client may also have experienced an emergency that requires immediate attention. In addition, regular visits are essential to maintaining the good client relationships necessary for effective representation. Having to travel substantial distances to meet

with clients would make both regular and last-minute meetings virtually impossible.

26. Also, since pre-trial detention in New Jersey is generally reserved for individuals facing the most severe criminal charges, which invoke the most severe sentences, the frequency of the attorney visits and the duration of those visits are substantially higher for those individuals who are detained pre-trial. For example:

- A) Plaintiff Bivens has been incarcerated at the MCCC since January 10, 2019. He is charged with two counts of First-Degree Murder, among other charges. To date, his Mercer County OPD attorney has been provided with hundreds of pages of paper discovery, as well as an abundance of digital discovery, including: 7 video statements; 2 surveillance videos from Trenton businesses; 11 law-enforcement body camera videos; 30 hours of surveillance videos from various telephone poles in Trenton; 2 audio clips of law-enforcement dispatch; 13 media files containing recorded phones calls from the MCCC; and multiple “shot spotter” recordings from various sites in Trenton. In order to thoroughly review this electronic discovery with Mr. Bivens, which can only be done in-person, his attorney has visited him, to date, 13 times in the MCCC, with each visit requiring hours of consultation.
- B) Plaintiff Reese has been incarcerated at the MCCC since May 15, 2017. He is also charged with First-Degree Murder, among other charges. His Mercer County OPD attorney has been provided with a total of 43 discs of electronic discovery, ranging from recorded video statements to law-enforcement body camera videos, all of which can only be thoroughly reviewed with Mr. Reese in-person in the MCCC. To date, his attorney has visited him 8 times to review these materials, spending hours with him each visit.

27. If Plaintiff Bivens’s and Reese’s OPD attorneys had to travel 60 miles, and well over an hour, from their office in Trenton to the HCCC, and then make the lengthy trek back again, they

would not have been able to meet and confer with Plaintiff Bivens and Reese thirteen and eight times, respectively. It is only because of the 15- to 20-minute drive to the MCCC that that such frequent, meaningful and necessary client-contact is possible.

The Existing Inadequacy of the HCCC

28. As of October 21, 2019, there were 976 inmates at the HCCC, of which 537 are on pre-trial detention. In addition to those being held on New Jersey criminal charges, the HCCC also houses hundreds of immigration detainees through a contract with Immigration and Customs Enforcement (ICE), as well as over one hundred federal pre-trial detainees.

29. The HCCC provides extremely limited and inadequate space for attorney-client visitation. Currently, only seven rooms afford the minimal privacy required for confidential consultation. These rooms are generally all occupied, and already in high demand simply to provide attorney-client access for present HCCC inmates.

30. In addition to the attorneys representing clients in criminal cases, dozens of attorneys visiting ICE detainees are also vying for time and space to consult with their clients. Immigration attorneys often using visitation rooms for hours on end, further limiting the availability of confidential client meeting rooms. Inmates may also visit with clergy in professional rooms, further decreasing their availability for attorney-client consultations.

31. With the HCCC's current population, estimated wait time for a professional visit room is anywhere between a half an hour up to two hours. If an inmates is in "lock-up" or protective custody, the wait time is increased as that individual has to be retrieved and walked to the visitation area.

32. In addition, HCCC is chronically understaffed, with about 100 unfilled positions, and administrators already rely heavily on overtime to keep the facilities staffed. The professional

visitation area is inadequately staffed as is, and injecting 300 or more additional inmates in that facility threatens to further compromise, and indeed overwhelm, the attorney-client visiting area.

The Freeholders' Decision and New Policy: Closing the MCCC as a Correctional Facility and Shipping Inmates to Distant Hudson County

33. On or about February 11, 2016, Mercer County Executive Brian M. Hughes informed the members of Defendant Mercer County Board of Chosen Freeholders of his intention to pursue housing Mercer County inmates in Hudson County.

34. At that time, Hughes announced that there was already a pending contract with the County of Hudson to transfer the vast majority of Mercer inmates to Hudson.

35. Although not completely closing the MCCC building, this plan would transform the correctional facility into merely an intake and processing center for those going to or coming from the HCCC.

36. Shortly thereafter, in response to overwhelming criticism regarding the proposed plan, Defendant Mercer County Board of Chosen Freeholders halted it for further study, contracting with consulting firm NW Financial Group, LLC.

37. NW Financial Group, LLC is based in Hudson County and has significant connections to Defendant County of Hudson. In addition, the President of Perselay Associates, Inc., a firm with which NW Financial Group, LLC in turn consulted, is the chairperson of the Board of Directors of Integrity House, which has a \$1.1 million contract with the HCCC.

38. On or about September 10, 2019, NW Financial Group, LLC produced a final report entitled "Mercer County Correction Center Cost Analysis," in which it recommended that Mercer sign a contract to house detainees at HCCC. NW Financial, LLC's report was, as its title suggests, focused exclusively on cost. The report also failed to take into account significant logistical challenges, notably in the area of transportation, as well as the impact on clients' constitutional

rights and on the administration of justice in either Mercer or Hudson Counties.

39. Despite being a “cost analysis,” the report failed to account for, and/or substantially underestimated, a number of expenses that will be necessary regardless of whether inmates are transferred to HCCC. This includes overtime and fringe benefits for remaining MCCC staffing; sorely needed repairs and improvements; and routine maintenance, overhead, and incidentals for MCCC.

40. On or about October 22, 2019, Defendant Mercer County Board of Chosen Freeholders adopted a resolution authorizing the execution of an “Agreement . . . for the Provision of Hudson County Correctional Center Services” (hereinafter “the Agreement”). The Agreement contemplated and intended that Defendant County of Mercer will close significant portions of the MCCC and contract with Defendant County of Hudson for the housing of all inmates, effective January 1, 2020.

41. The next day, October 23, 2019, the Defendant Hudson County Board of Chosen Freeholders adopted a resolution authorizing the Agreement. The Agreement, which was not released to the public until after Defendants adopted their respective resolutions, consists of a signed but undated, 13-page contract and four “Exhibits” labeled Exhibit A through D.

42. The Agreement calls for Defendant County of Hudson to house a minimum of 300 Mercer inmates at \$102 per day. Hudson would provide all on-site services such as housing, food, security, and in-facility medical, dental, mental health, and formulary medication services, and be responsible for discipline. The agreement allows for more than 300 inmates to be housed by Hudson, but requires the County of Mercer be billed for 300 inmates even if fewer are actually housed in Hudson. The agreement also calls for the County of Mercer to pay for or reimburse the County of Hudson for additional expenses, including damage, medical transportation, and security.

43. The Agreement does not distinguish between pre-trial detainees, those convicted but awaiting sentencing, and those who have been sentenced.

44. The Agreement calls for the County of Mercer to provide transportation to and from Mercer County Superior Court or for Court-ordered assessments, as well as transporting those “released on bail” back to Mercer County to retrieve property. There is an exception for Mercer County inmates admitted to medical facilities; the County of Hudson will be responsible for transporting those individuals to the Mercer County Criminal Courthouse.

45. While NW Financial LLC’s “cost-analysis” report states that Defendant County of Mercer plans to continue to use and staff MCCC at a reduced level in order to process individuals going to or coming from HCCC and to “house inmates who have court appearances” the Agreement itself is silent on this topic and anticipates daily transport. Upon information and belief, MCCC Charles Ellis Warden has repeatedly declared that the transportation of Mercer inmates will be dealt with “on the fly,” suggesting that no plan has been put in place.

46. Under the terms of the Agreement, Mercer County inmates will be housed in distant HCCC without any further action by Defendant Mercer County Board of Chosen Freeholders, or the opportunity for review by the Superior Court.

47. The terms of the Agreement also allow the County of Hudson to transfer Mercer inmates from HCCC to other, unnamed facilities, so long as it has the County of Mercer’s “permission.”

48. This too would occur without opportunity for review by the Superior Court.

49. Upon information and belief, although the Agreement is to take effect on January 1, 2020, Defendants may begin transporting inmates to the HCCC prior to the effective date.

50. Defendant County of Hudson aids, abets, and participates in Defendant County of Mercer’s violation of the Plaintiff’s rights by contracting with Defendant County of Mercer to house Mercer

County detainees and inmates, and enable the closing of significant portions of the MCCC.

The Impact on Effective Legal Representation

51. The Agreement provides scant information regarding provisions for attorney visits. It only states that “Mercer inmates shall have attorney visitations,” and that Hudson will “use its best efforts and cooperate with Mercer in allowing video conferencing of attorney or family visits.” The Agreement does not specify which entity is responsible for ensuring same.

52. To the extent that Mercer OPD attorneys will be vying for the already scarce time and space for visits, the above paragraphs are incorporated by reference as if set forth fully here.

53. The Director of Hudson County’s Department of Corrections and Rehabilitation, Ronald P. Edwards, told the Mercer County Board of Chosen Freeholders that one designated professional visit conference room at HCCC will be available to Mercer OPD attorneys and private attorneys. Therefore, it is unclear whether Mercer OPD attorneys will be able to access the remaining rooms, or whether those will be set aside for Hudson inmates and ICE detainees, leaving OPD attorneys a single professional visit room to consult with clients. OPD attorneys would also need to share this space with private attorneys, and potentially others such as clergy.

54. In addition to the limitations on available physical space, HCCC policies, which will apply to Mercer County inmates as well, also infringe upon the attorney-client relationship and confidential communications.

55. For example, according to Mr. Edwards, the HCCC requires that inmates can only access legal mail through a flash drive, and inmates can only open such privileged communications “in the presence of a custody staff member to ensure that there is no unauthorized material on the USB drive.”

56. Separate and apart from the significant concerns related to HCCC’s policies and facilities

regarding attorney-client communications and consultations, the remote location of HCCC will also significantly impair access to counsel for Mercer County inmates housed there.

57. A round trip from the Mercer County OPD (and the Mercer County Criminal Courthouse) to HCCC in Kearney is about 120 miles. Depending on the time of day, this travel entails between two hours and more than four hours by car, over some of the most congested highways in New Jersey. This estimate does not account for heavy traffic or other road delays due to weather, construction, or car accidents, which would only increase the required travel time.

58. Given current wait times and commute, it will take an OPD staff attorney from Mercer approximately four-and-a-half hours to meet with a single client for a mere 45-minute consultation.

59. The greater part of a workday would be devoted to visiting a single client at HCCC under current conditions. Adding an additional 336 inmates to the HCCC will surely increase the wait times, and thus the total time for a client visit.

60. As a result, OPD trial attorneys would be forced to allot a full day, or even two days a week, to meet with clients housed at HCCC, even if they are able to schedule multiple client meetings in a single day.

61. Having to set aside such a substantial bloc of time to meet with detained clients at HCCC will necessarily limit, if not entirely impede, Plaintiffs' ability to provide effective representation to the indigent Mercer County defendants housed in Hudson County. Not only will needed, frequent meetings be virtually impossible, but even a reduced number of in-person visits will require OPD attorneys to increasingly ration their already limited time.

62. Having to devote an entire day or more to making the multi-hour trek to the HCCC will also hamper OPD attorneys' ability to effectively represent clients who are not in custody. Such an increased demand on attorney time will result in markedly less availability, and less flexibility,

for in-office meetings with non-detained clients, particularly to address emerging issues in a case. The great reduction in office-time and availability will similarly impede attorneys' ability to meet with witnesses, clients' families, and prepare for all of their clients' cases, whether incarcerated at HCCC or not.

63. To the extent that video-conferencing is offered as an alternative to in-person attorney-client visits, it is a wholly inadequate substitute. Often, attorneys must review voluminous discovery with their clients such as documents and photographs; increasingly, this includes electronic discovery including audio-video recordings of statements, surveillance, and body-camera footage. Although some media can be downloaded onto a flash drive and provided to a client at the jail to review on the jail laptop, the majority of files cannot be viewed this way because appropriate program to play them is not available on jail computers. Thus, attorneys must go to the jail to review electronic media with clients on OPD computers.

64. In addition, HCCC policy requires that even if counsel uses video conferencing, counsel must give at least 24 hours notice or they will be unable to meet with a client, regardless of need. This will make last-minute consultations impossible.

***The Impact on Plaintiffs' Ability to Maintain Family Contact and Support --
Critical to Preparing a Defense***

65. Furthermore, an important component of preparing a defense in a criminal case is the defendant's maintenance of contact and support with family members and friends outside the jail. When family and friends are able to meet with and converse with the loved one who is detained, it not only provides needed moral support to the defendant, but it also provides logistical support to the defense. Family and friends oftentimes assist in assembling evidence to support the defense, including but not limited to the identification and location of relevant witnesses and documents.

66. Plaintiff Bivens, for example, has received approximately 8 visits from various family

members since he has been detained at the MCCC. And Plaintiff Reese has been visited almost 24 times by family and friends. These visits have aided in the morale of both Bivens and Reese; but more importantly, the visits have concretely aided their defenses to the serious charges with which they are faced by allowing for the exchange of information and the assemblage of evidence.

67. The transfers will render such contacts substantially more expensive, difficult and infrequent. The Agreement specifically states that Hudson has no responsibility to arrange, or even facilitate transportation for family or other loved ones who wish to visit a Mercer County inmate.

68. The visiting policy at HCCC is in constant flux, frequently prohibiting any in-person personal visits with family or friends, and instead only allowing video calls. Not only is this an inadequate substitute for seeing and communicating in person with a loved one, but families and friends are charged \$4 per 10 minutes for a video call. This will be cost-prohibitive for many OPD clients and their families.

69. The HCCC's web-based video-conferencing requires both internet access and access to a computer, smart-phone or tablet. Those who do not have their own internet-capable devices and reliable internet access have no choice but to travel to the HCCC to use the HCCC's equipment. Even those with access to their own devices and internet will be forced to travel to the HCCC whenever there is an outage of the video-conferencing program.

70. Family and friends from Mercer County would need to drive between two hours and more than four hours, travel at least 100 miles, and pay over \$18.00 in tolls, just to "visit" their loved ones through a video monitor. For those who lack access to a car, the travel times might be double when using public transportation. For example, the family of an inmate from Trenton would, if dependent on public transportation, face a more than two-and-a half to five-hour roundtrip, requiring at least at least two transfers each way. The fare for a single visit to a loved one would

range from \$31.40 to \$36.90 per person.

71. According to reliable studies, protocols, and practice materials reviewed, housing inmates far from their families and support groups is also likely to increase recidivism among the Mercer County residents who will be required to serve time in other counties. Although housing detainees outside the facility is common in instances involving security, no other county in the state houses its residents in facilities so far outside of its own jurisdiction, a great distance from family, friends, and other forms of community support.

The Impact on the Courts and the Administration of Justice

72. The remote housing of Mercer inmates will impede the Judiciary's ability to conduct court proceedings effectively, both in Mercer County and Hudson County.

73. The Agreement provides for daily transportation of Mercer inmates who have court appearances, and requires that Hudson have them "dressed and ready for pick up by 6 a.m."

74. There are currently seven judges who preside over criminal matters in the County of Mercer. Six of the seven have full court calendars every Monday and Friday, with an average of 10-15 inmates being transported to each courtroom. Routinely, many courtrooms already work past 4:30 p.m., triggering overtime for many county employees.

75. Historically, inmates brought to the courthouse in Mercer from facilities in other counties or jurisdictions have arrived late, because of lengthy delays and slow movement to court.

76. Delays are also common even when inmates are transported only from MCCC to court.

77. Currently, on a day in which Mercer inmates must appear in court, they are awoken at 6:00 a.m. by sheriff's officers in the MCCC. They then have approximately 30 minutes to dress and ready themselves for the day before they are escorted from their respective wings or "pods" of the jail to a common holding cell ("H2") on the main floor. From here, two inmates are extracted

from the holding cell at a time; they are strip searched and shackled and then escorted into a large waiting room. Once this process is completed for every inmate attending court, all of the inmates are walked from the waiting room outside to the transport busses or vans. They are finally delivered to the Mercer County Criminal Courthouse between 8:30 and 9:00 a.m., at which time they are secured in holding cells in the basement of the courthouse and fed breakfast. They are then escorted to holding cells behind the courtrooms in which they are due to appear.

78. Even on a good day, when the process unfolds as planned, Mercer inmates are ready to appear on the record just in time, or shortly after, the scheduled time for court. This delicate schedule cannot be replicated if the same inmates are 60 miles from the courthouse, as opposed to 12 miles, passable through some of the most congested highways in the State.

79. Even if the HCCC were able to have all inmates “ready for pick up by 6 a.m.,” there would be additional time spent presenting and checking credentials in accordance with the Agreement, along with the time-consuming task of actually bringing inmates to the transport vehicles and securing them inside. Even in ordinary traffic conditions, the drive will take between an hour and two hours if leaving precisely at 6:30 a.m., and even longer if the vehicles leave later in day.

80. Because the court-day protocol is so time- and labor-intensive, having every inmate to be dressed, groomed, and “ready for pick up by 6 a.m.” will require an extremely early wake up. This need to wake detainees at extreme hours to make this trip will also greatly diminish their opportunities for sleep, self-care, and grooming, and ultimately deprive them of the ability to make a reasonable court appearance in front of a judge or jury and to participate fully in their defense. For an inmate on trial to be subjected to this routine each day only compounds this deprivation.

81. The Agreement will also result in unmanageable delays for Hudson’s court calendar. If Mercer inmates are given priority, this will in turn delay the process for Hudson County inmates

being transported to their appearances in the Superior Court of Hudson County.

82. The delays caused by the planned transfers will undoubtedly delay the proceedings themselves. But the proceedings will be further delayed, or adjourned altogether, because Mercer inmates will be unprepared to make informed decisions about their cases since they will not have had the opportunity for meaningful consultation with their court-appointed Mercer County OPD attorney. Due to the inevitable transportation delays and the unpreparedness of the defense, the remote housing of Mercer inmates will simply prolong the entire adjudicatory process.

The Commissioner's Authority

83. Title 10A, Chapter 31 of the New Jersey Administrative code, along with other regulations, creates a comprehensive and extensive regulatory scheme which governs nearly all aspects of the maintenance and administration of any New Jersey adult county correctional facility, including the MCCC. These regulations, found at N.J.A.C. 10A:31-1.1 et seq., assume the existence of an adult correctional facility in each and every county in the state.

84. The regulations require that any county, including but not limited to the County of Mercer, to submit for approval by the Commissioner of the Department of Corrections ("DOC") any plans it may have for construction of a new facility or for major changes in the appearance or condition of any existing county adult correctional facility prior to said construction or renovation. The plans must meet the minimum standards established by the Commissioner.

85. This is because the Commissioner of the DOC has the statutory authority, and responsibility, to regulate minimum standards for the housing of all inmates, including those housed in local correctional facilities such as the MCCC, within the state of New Jersey. Pursuant to N.J.S.A. 30:1B-10, the Commissioner is authorized to issue rules and regulations governing the operation of adult county correctional systems.

86. The DOC was and still is charged with creation of a master plan to anticipate and coordinate the need for correctional facilities within the state of New Jersey. N.J.S.A. 30:1B-6.

87. Upon information and belief, each county within the State of New Jersey historically maintained a local adult correctional facility, and the County of Mercer has maintained a county jail within its own jurisdiction for as long as the county has existed as a political subdivision.

88. The closure or substantial closure of any local adult correctional facility and the wholesale relocation of inmates to another location in another county constitute such a change in the physical conditions under which the detainees are held, as to require prior approval of the Commissioner of the DOC.

89. Furthermore, adult county correctional facilities must be geographically accessible to the officers of the court, attorneys and law enforcement officers and members of the public. This includes being accessible by public transportation. N.J.A.C. 10A:31-3.4(b).

90. The regulations also specifically provide that sufficient space for contact and non-contact visits must be provided in all adult county correctional facilities. There must be interview areas that allow for confidential consultation with attorneys, as well as visitors, clergy, and parole and probation officers. N.J.A.C. 10A:31-3.14(a), (b); N.J.A.C. 10A:31-3.4(s).

91. Plaintiffs have requested, through OPRA requests, documents relating to the closure of substantial closure of MCCC, including any request for approval of the decision made by the County of Mercer or the County of Hudson to the DOC. Neither County of Mercer nor the DOC possessed any documents indicating that the DOC was consulted or even notified of the decision prior to Defendants entering into the Agreement, nor any documents indicating that DOC has subsequently approved of the Agreement. County of Hudson never responded to the OPRA request.

92. Even if such permissions have been sought, Plaintiffs reasonably believe that key considerations, such as inmates' access to counsel, were not adequately considered; prior to the County Executive's 2016 decision to pursue move Mercer inmates, en masse, to Hudson County, no one in authority at Mercer County (or the DOC) received or considered any submission or evidence from the OPD as to effect on attorney-client relations that would result from the closing of the MCCC. Additionally, there was no consideration of the impact on attorney-client relations in the consulting firm's report, upon which the Freeholders heavily relied deciding to approve the contract with the County of Hudson.

The Role of the Court

93. Plaintiff Office of the Public Defender represents inmates who have been remanded to the MCCC by the Mercer County Superior Court to serve fourth-degree sentences, or third-degree sentences of less than one year where such incarceration is a condition of probation, pursuant to N.J.S.A. 2C:43-10.

94. N.J.S.A. 2C:43-10(c) requires the court to commit persons sentenced to terms of less than one year to the "common jail of the county, the county workhouse or the county penitentiary for the term of his sentence and until released."

95. No person serving a term of less than one year may be transferred from one county penal institution to another county penal institution without the authorization of, and an order of, the Superior Court. N.J.S.A. 2C:43-10(g).

96. Pursuant to N.J.S.A. 30:8-48.2, no county may contract with any other organization or entity for the housing of inmates (for the purpose of work release or vocational training) without the entity or organization first having been designated by the sentencing judge or the assignment judge in the county where the individual was sentenced. No such designation shall be made unless

said institution is appropriate for the housing of the inmates sought to be transferred.

97. Upon information and belief, no order authorizing the wholesale transfer of inmates sentenced pursuant to N.J.S.A. 2C:43-10(c) has been secured by Defendants, and neither the assignment judge of Mercer County nor the sentencing judge for any individual inmate has designated any the HCCC as an appropriate contractor for the housing of any Mercer County inmates.

CAUSES OF ACTION

Count I

Defendants' Decision and Transfer Policy Denies Plaintiffs Their Right to Effective Assistance of Counsel in Violation of the Sixth Amendment to the United States Constitution and Article One, Paragraphs One and Ten of the New Jersey Constitution.

98. Plaintiffs incorporate by reference as if fully set forth here the allegations of all previous paragraphs of the Complaint.

99. Plaintiffs who are detained before trial, during trial, and prior to sentencing have a constitutional right to reasonable, in-person access to their counsel to defend themselves against their criminal charges, and to advocate on their behalf at sentencing, and such contact is essential to the provision of constitutionally-effective assistance of counsel under the United States and New Jersey Constitutions.

100. If their clients are transferred to HCCC, as the Defendants have contracted to do, Mercer OPD attorneys will encounter severe impediments to such constitutionally-required contacts, including but not limited to prohibitive time and travel distance requirements, HCCC's flawed policies, and inadequate attorney-client consultation areas to accommodate Mercer County inmates and their attorneys.

101. The transfers will render it virtually impossible for OPD attorneys to meet with clients shortly after arrest and prior to detention hearings.

102. The transfers will render it virtually impossible for counsel to meet with clients on a regular basis to consult as to the defense, to share and review discovery with them, review trial memoranda and plea agreements and have them executed in jailhouse interviews, as OPD attorneys now routinely do at the MCCC.

103. During trial and protracted motion hearings, the inmate's detention far from the courthouse and time spent in transport for the client (and/or travel for attorney) will cripple the defense by making after-hours attorney-client consultation overly time-consuming and exhausting for attorney and client alike, thus frustrating and diminishing the clients' ability to cooperate with counsel and to assist in their own defense, and aggravating the considerable prejudice to the defense that pre-trial detention creates even under the best of circumstance.

104. For the named individual Plaintiff inmates, as well as for OPD clients generally, the planned transfers will severely tax and overstretch the limited attorney resources of the OPD, and inevitably diminish the quality of representation that counsel can provide, given the impediments to attorney-client consultation and collaboration that obstacles of distance and time will create. This will result in the violation of their rights to effective assistance of counsel.

Count II

Defendants' Decision and Transfer Policy Denies Plaintiffs Their Right to a Speedy Trial in Violation of the Sixth Amendment to the United States Constitution and Article One, Paragraph Ten of the New Jersey Constitution.

105. Plaintiffs incorporate by reference as if fully set forth here the allegations of all previous paragraphs of the Complaint.

106. Housing Mercer inmates in distant Hudson County will cause widespread delays in

criminal proceedings due to late departures from HCCC; traffic, construction, accidents, and other road conditions; and slow movement to courtrooms even upon arrival.

107. The geographic separation from the evidence or sources of evidence upon which an OPD client may rely to establish a defense, will undoubtedly delay the proceedings themselves.

108. Proceedings will be further delayed, and frequently adjourned altogether, because Mercer inmates will be unprepared to make informed decisions about their cases without having had ample opportunity to consult with their attorneys.

109. Each of these harms and disadvantages individually, and all collectively, will frustrate Plaintiff inmates' constitutional right to a speedy trial.

Count III

Defendants' Decision and Transfer Policy Denies Plaintiffs Their Rights to Due Process and Equal Protection of the Law in Violation of the Fifth and Fourteenth Amendments to the United States Constitution and Article One, Paragraph One of the New Jersey Constitution.

110. Plaintiffs incorporate by reference as if fully set forth here the allegations of all previous paragraphs of the Complaint.

111. Defendants County of Mercer's decision to transfer Plaintiff inmates and all, or virtually all, inmates from MCCC to HCCC constitutes a policy and an action that violates and/or will violate the Federal and State constitutional guarantees to due process and equal protection of the law for all affected inmates, in that it will impede their access to counsel, diminish or eliminate their right to appear in court under reasonable conditions, isolate them from family and community support that would assist in them accessing defense resources, cripple their ability to defend against their charges, and subject all detainees to unduly harsh and burdensome conditions of remote confinement, and thus unduly and disproportionately punish and disfavor them on account of their

alleged offense having occurred in Mercer County rather than a locality with a reasonably-located county correctional facility, and their inability to secure their liberty pending trial.

112. Transfer of the inmates will impose upon them in effect a punishment in the form of mental and physical hardships based solely upon the location of their arrest. Plaintiffs will experience unnecessary isolation from family and friends, deprivation of access to counsel, loss of sleep, rest and grooming, limited access to counsel and to participation in the review and preparation of their own defense, delays in securing relief, all because of their alleged offense occurred in Mercer County rather than a locality with a reasonably-located county correctional facility, and their inability to secure their liberty pending trial.

113. Mercer inmates will suffer chronic denials of due process of law and disproportionate disadvantage, in violation of their right to equal protection of the law, and in comparison to those criminally accused in other counties, and those in Mercer County who were able to secure pre-trial release.

114. The determination of Defendants to transfer Plaintiff inmates will thus deny to all Mercer County inmates the due process and the equal protection of the law.

Count IV

For Relief in the Nature of a Prerogative Writ to Enjoin and Nullify the Decision to Close a Significant Portion of the MCCC and Transfer Mercer County Inmates to Hudson County, Until Such Time as (1) the Commissioner of the DOC Shall have Authorized Said Act; and (2) the Superior Court Shall Have Designated the HCCC as Appropriate and Shall have Authorized the Transfers of All Inmates.

115. Plaintiffs incorporate by reference as if fully set forth here the allegations of all previous paragraphs of the Complaint.

116. The regulations governing local adult correctional facilities require by implication that the Commissioner of the DOC be notified of a decision to close a county facility and that said decision

be approved by the Commissioner prior to implementation.

117. Despite this requirement, upon information and belief, neither Defendant County of Mercer and its Board of Chosen Freeholders nor Defendant County of Hudson and its Board of Chosen Freeholders have obtained or even formally notified the Commissioner of the DOC that the MCCC will be closed, thus eliminating the only county adult correctional facility in Mercer County.

118. N.J.S.A. 30:8-48.2 and N.J.S.A. 2C:43-10(g) require that the Superior Court approve as appropriate any institution housing inmates of the county, and an individual order must be obtained prior to transfer of any inmate to a facility out of the county.

119. Upon information and belief, no such order authorizing the transfer of inmates sentenced pursuant to N.J.S.A. 2C:43-10(g) has been secured by Defendant County of Mercer and its Board of Chosen Freeholders, and/or the MCCC.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court to:

- A. Declare that the closing of the MCCC, or substantial section of it, and the transfer of inmates to the HCCC, as decided and planned by Defendants, violates the Federal and State constitutional rights of Plaintiffs to effective assistance of counsel;
- B. Declare that the closing of the MCCC, or a substantial section of it, and the transfer of inmates to the HCCC, as decided and planned by Defendants, violates the Federal and State constitutional rights of Plaintiffs to a speedy trial;
- C. Declare that the closing of the MCCC, or a substantial section of it, and the transfer of inmates to the HCCC, as decided and planned by Defendants, violates the Federal and State

constitutional rights of Plaintiffs to due process and the equal protection of the law;

- D. Declare that Defendants failed to comply with all regulations governing the operation of a county correctional facility and regulations governing substantial changes to each county's plan for that facility;
- E. Declare that Defendants failed to comply with all regulations regarding DOC approval of a county's plan to transfer inmates;
- F. Declare that Defendants failed to comply with all requirements regarding Superior Court approval for the transfer of Mercer inmates to out-of-county facilities;
- G. Temporarily, Preliminarily and Permanently enjoin Defendants from transferring inmates from MCCC to the HCCC; and
- H. Award other relief, including reasonable attorneys' fees and costs, as the Court deems just.

Respectfully,

s/ Lauren S. Michaels

Lauren S. Michaels, Esq.
Counsel to the Public Defender

s/ Fletcher C. Duddy

Fletcher C. Duddy, Esq.
Deputy Public Defender

NEW JERSEY OFFICE OF THE PUBLIC DEFENDER
ATTORNEYS FOR PLAINTIFFS

Dated: November 19, 2019

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:5-1(c), Lauren S. Michaels and Fletcher C. Duddy are designated as trial counsel.

s/ Lauren S. Michaels

Lauren S. Michaels, Esq.
Counsel to the Public Defender

s/ Fletcher C. Duddy

Fletcher C. Duddy, Esq.
Deputy Public Defender

NEW JERSEY OFFICE OF THE PUBLIC DEFENDER
ATTORNEYS FOR PLAINTIFFS

Dated: November 19, 2019

CERTIFICATION BY COUNSEL

The undersigned hereby certify that to the best of their knowledge, the matter in controversy is not the subject of any other action pending in any court.

s/ Lauren S. Michaels

Lauren S. Michaels, Esq.
Counsel to the Public Defender

s/ Fletcher C. Duddy

Fletcher C. Duddy, Esq.
Deputy Public Defender

NEW JERSEY OFFICE OF THE PUBLIC DEFENDER
ATTORNEYS FOR PLAINTIFFS

Dated: November 19, 2019

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 Fletcher C. Duddy, Deputy Public Defender, I.D. 013752011
Attorneys for Plaintiffs

JOSEPH E. KRAKORA, as Public Defender
 for the State of New Jersey, THE NEW
 JERSEY OFFICE OF THE PUBLIC
 DEFENDER, ISSIAHA BIVENS, and
 TYLEEB REESE,

Plaintiffs,

v.

COUNTY OF MERCER AND ITS
 BOARD OF CHOSEN FREEHOLDERS,
 and COUNTY OF HUDSON AND ITS
 BOARD OF CHOSEN FREEHOLDERS,

Defendants.

Superior Court of New Jersey
 Mercer County
 Law Division

Docket No.:

Civil Action

**ORDER TO SHOW CAUSE WHY A
 PRELIMINARY INJUNCTION SHOULD
 NOT ISSUE**

THIS MATTER being brought before the Court by Lauren S. Michaels, Esq., and Fletcher C. Duddy, Esq., attorneys for the plaintiffs, New Jersey Public Defender Joseph E. Krakora, the New Jersey Office of the Public Defender, Issiaha Bivens, and Tyleeb Reese, seeking a preliminary injunction at the return date set forth below pursuant to Rule 4:52, based on the facts set forth in the plaintiffs' verified complaint, the arguments advanced in their memorandum of law, and for good cause shown;

It is on this ____ day of _____ ORDERED that the defendants, the Counties of Mercer and Hudson and their Boards of Chosen Freeholders, appear and show cause before the Superior Court of New Jersey, Mercer County, in Trenton, New Jersey at _____

o'clock _____ or as soon thereafter as counsel can be heard, on the _____ day of _____, 2019 why an order should not be issued as follows:

1. Preliminarily enjoining the defendants from effectuating an agreement to close substantial portions of the Mercer County Corrections Center (MCCC) and shipping several hundred current, and thousands of future, inmates of the MCCC to the Hudson County Correctional Center (HCCC); and

2. Such other relief as the Court deems equitable and just.

It is further ORDERED that:

1. A copy of the order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application shall be served upon the defendants within _____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. Plaintiffs shall file with the Court its proof of service on the defendants no later than three (3) days before the return date.

3. Defendants must file and serve any written response to this order to show cause and the request for entry of injunctive relief and proof of service by _____, 2019. The original documents must be filed with the clerk of the Superior Court in the county listed above. You must also send a copy of your opposition papers directly to Judge _____, whose address is _____,

New Jersey. You must also send a copy of your opposition papers to the plaintiffs' attorney whose name and address appears above. A telephone call will not protect your rights; you must file your opposition, pay the required fee of \$ _____ and serve your opposition on your

adversary, if you want the court to hear your opposition to the injunctive relief the plaintiffs are seeking.

4. The plaintiffs must file and serve any written reply to the defendants' opposition by _____, 2019. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

5. If the defendants do not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiffs file a proof of service and a proposed form of order at least three (3) days prior to the return date.

6. If the plaintiffs have not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope including postage) must be submitted to the Court no later than three (3) days before the return date.

7. Defendants take notice that the plaintiffs have filed a lawsuit in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you or your attorney must file a written answer to the complaint and proof of service within 35 days from the day of service of this order to show cause (not counting the day you received it).

These documents must be filed with the Clerk of the Superior Court in the county listed above. Include a \$_____ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your answer to the plaintiff's attorney whose name and address appear above. You must file and serve your answer (with the fee) within 35 days of this Order, or

judgment may be entered against you by default. Please note: opposition to the order to show cause is not an answer and you must file both.

9. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than _____ days before the return date.

HON.

New Jersey Office of the Public Defender
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 P.O. Box 850
 Trenton, NJ 08625
 (609) 292-7087 (Voice)
 (609) 777-1864 (Fax)
 Lauren S. Michaels, Counsel to the Public Defender, I.D. 015582008
 Fletcher C. Duddy, Deputy Public Defender, I.D. 013752011
Attorneys for Plaintiffs

JOSEPH E. KRAKORA, as Public Defender
 for the State of New Jersey, THE NEW
 JERSEY OFFICE OF THE PUBLIC
 DEFENDER, ISSIAHA BIVENS, and
 TYLEEB REESE

Plaintiffs,

v.

COUNTY OF MERCER AND ITS
 BOARD OF CHOSEN FREEHOLDERS,
 and COUNTY OF HUDSON AND ITS
 BOARD OF CHOSEN FREEHOLDERS,

Defendants.

Superior Court of New Jersey
 Mercer County
 Law Division

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HON.

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Attorneys for Plaintiffs

JOSEPH E. KRAKORA, as Public Defender
 for the State of New Jersey, THE NEW
 JERSEY OFFICE OF THE PUBLIC
 DEFENDER, ISSIAHA BIVENS, and
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Plaintiffs,

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COUNTY OF MERCER AND ITS
 BOARD OF CHOSEN FREEHOLDERS,
 and COUNTY OF HUDSON AND ITS
 BOARD OF CHOSEN FREEHOLDERS,

Defendants.

Superior Court of New Jersey
 Mercer County
 Law Division

Docket No.:

Civil Action

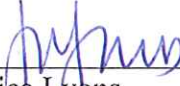
VERIFICATION OF JESSICA LYONS

I, Jessica Lyons, hereby declare under penalties of perjury the following: I am a Deputy Public Defender, assigned to the Mercer County Office of the Public Defender, which I manage; I was appointed to that position by Joseph E. Krakora, the Public Defender of the State of New Jersey; I am authorized by Public Defender Krakora to make this verification on behalf of Plaintiffs in the foregoing action.

I hereby verify and confirm that, with the exception of the paragraphs related solely to the Hudson County Correctional Center, I have personal knowledge of statements made in the foregoing complaint, and that those statements are true and correct to the best of my knowledge.

I understand that the statements in this verification are made subject to the penalties or

perjury relating to unsworn falsification to authorities.



Jessica Lyons
Deputy Public Defender

Dated:

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 Hughes Justice Complex
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 Trenton, NJ 08625
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 Lauren S. Michaels, Counsel to the Public Defender, I.D. 015582008
 Fletcher C. Duddy, Deputy Public Defender, I.D. 013752011
Attorneys for Plaintiffs

JOSEPH E. KRAKORA, as Public Defender
 for the State of New Jersey, THE NEW
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 DEFENDER, ISSIAHA BIVENS, and
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COUNTY OF MERCER AND ITS
 BOARD OF CHOSEN FREEHOLDERS,
 and COUNTY OF HUDSON AND ITS
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Defendants.

Superior Court of New Jersey
 Mercer County
 Law Division

Docket No.:

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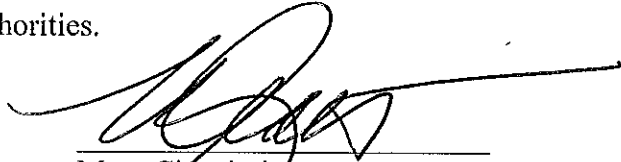
VERIFICATION OF MARY CIANCIMINO

I, Mary Ciancimino, hereby declare under penalties of perjury the following: I am a Deputy Public Defender, assigned to the Hudson County Office of the Public Defender, which I manage; I was appointed to that position by Joseph E. Krakora, the Public Defender of the State of New Jersey; I am authorized by Public Defender Krakora to make this verification on behalf of Plaintiffs in the foregoing action.

I hereby verify and confirm that I have personal knowledge of statements made in the foregoing complaint with respect to the Hudson County Correctional Center, and that those statements are true and correct to the best of my knowledge.

I understand that the statements in this verification are made subject to the penalties or

perjury relating to unsworn falsification to authorities.



Mary Ciancimino
Deputy Public Defender

Dated: 11/12/19

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 Lauren S. Michaels, Counsel to the Public Defender, I.D. 015582008
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Attorneys for Plaintiffs

JOSEPH E. KRAKORA, as Public Defender
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COUNTY OF MERCER AND ITS BOARD
 OF CHOSEN FREEHOLDERS, and
 COUNTY OF HUDSON AND ITS BOARD
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Defendants.

Superior Court of New Jersey
 Mercer County
 Law Division

Docket No.:

Civil Action

**MEMORANDUM OF LAW IN SUPPORT
 OF PREROGATIVE WRIT AND FOR AN
 ORDER TO SHOW CAUSE WITH
 PRELIMINARY RESTRAINTS UNDER
R. 4:69-3 AND R. 4:52-1**

INTRODUCTION

On October 22, 2019, the Mercer County Board of Chosen Freeholders made the sweeping decision to close down substantial portions of the Mercer County Corrections Center (MCCC) and transfer to another county's facility hundreds of current, and thousands of future, inmates detained pre-trial, awaiting disposition, and serving sentences in Mercer County. Rather than partnering with one of the several adjacent counties which presented viable options, such as Burlington, Middlesex, or Monmouth, the Freeholders instead chose to strike a deal with Hudson County, situated on the opposite side of the State of New Jersey. Hudson County's correctional facility is located in Kearny, over 70 miles from the MCCC, 60 miles from the Mercer County Criminal

Courthouse and the Mercer County regional Office of the Public Defender (OPD), and only passable through some of the most heavily travelled and congested roads in New Jersey. This ill-conceived plan, which lacks both legal and regulatory authorization, will wreak havoc on the lives of the individuals slated for transfer, and cause untold delays and disruptions in the operations of an already overtaxed court system and public defense bar. In short, the Freeholders could not have selected a worse county with which to partner in this venture.

Even taken alone, the sheer distance and travel time between Trenton and Kearny would make it exceedingly difficult for attorneys from the Mercer County OPD to maintain the regular, in-person attorney-client consultation that is vital and necessary to preparing a criminal defense. But when coupled with the already limited time OPD attorneys have to visit their clients in the MCCC—which is now only possible due to its close proximity to their office and the courthouse—and the existing long wait times in Hudson’s facility due to its deficient policies and lack of visitation space, practically speaking, OPD attorneys may be unable to see their clients at all as they await trial or sentencing in Hudson County.

The commuting time and distance to Kearny, not to mention expense, will also make it virtually impossible for Mercer County inmates to see family, friends and loved ones, who not only provide important emotional support during the crisis of facing a serious criminal charge, but who also assist in the preparation of a legal defense by sharing information and identifying potential witnesses.

There are no safeguards or assurances in the deal that the Freeholders made with Hudson County that ensure that Mercer County inmates can continue to see their attorneys and loved ones in-person once they are housed 60 miles away from their communities in Mercer County. The agreement itself is little more than 13 pages and a hodge-podge of “exhibits,” devoid of any

concrete terms or plans for how the criminal justice system will carry on in light of the closure and transfers. In fact, the warden of the MCCC has repeatedly admitted that the counties' plan for implementation essentially amounts to figuring out the details "on the fly" as they barrel toward the agreement's imminent effective date — all while the lives of individuals, many of whom are being detained pre-trial, and the administration of justice in Mercer County, hang in the balance. Shockingly, the Freeholders did not even bother to seek approval from the New Jersey Department of Corrections or the Mercer County Superior Court, both of which are charged with various oversight responsibilities for the housing and transfer of county inmates.

Sadly, the chaos and destruction that the Freeholders have chosen to wreak on the rights of the criminally accused and criminal justice system in Mercer County is all to save a modicum of money on its annual budget. And even those purported cost savings will likely never come to fruition, given the Freeholders' faulty fiscal analysis leading to their decision to partner with Hudson County.

The Freeholders' transfer plan lacks authorization by either the Department of Corrections or the Superior Courts, but most importantly, it will deny all current and future pre-trial detainees in the MCCC their constitutionally-protected rights to effective assistance of counsel and to a speedy trial, and to all inmates their rights to due process and the equal protection of the law. Plaintiffs Issiaha Bivens and Tyleeb Reese are current inmates housed in the MCCC while they await trial, and are among those whose constitutional rights will be violated by the transfers. The transfers will also prevent Plaintiff Public Defender, Joseph E. Krakora, and his office, Plaintiff OPD, from meeting their statutory obligations of providing indigent criminal defendants of Mercer County with effective assistance of counsel.

Thus to prevent these constitutional, statutory, and regulatory violations from immediately

taking place, Plaintiffs move to preliminary enjoin the closing of significant portions of the MCCC and the attendant mass transfers of Mercer County inmates, including those detained pre-trial, those convicted and awaiting sentences, and those serving sentences to distant Hudson County. Plaintiffs proceed under Rule 4:69-3 and Rule 4:52-1 and ask the Court to issue an Order to Show Cause as to why such relief should not be granted.

STATEMENT OF FACTS

Criminal proceedings in Mercer County are already subject to frequent delays despite Mercer County housing inmates a mere 12 miles, and 15 to 20 minutes, from the Courthouse.

For more than a century, the County of Mercer has owned and operated the MCCC, which at any given time houses several hundred people detained pending the disposition of their criminal case in the Mercer County Superior Court or serving sentences of less than one year.¹ Verified Compl. ¶¶ 9, 12, 87; Ex. A at 6. Located in Hopewell Township² in Mercer County, the MCCC is only about 12 miles, and a 15- to 20-minute drive, from the Mercer County Criminal Courthouse and the Mercer County regional office of the Office of the Public Defender (OPD), both of which are in Trenton.³ Verified Compl. ¶¶ 17, 18.

Seven judges preside over criminal matters in Mercer County, six of whom have full court calendars every Monday and Friday. Verified Compl. ¶ 74. On court days, about 10-15 MCCC inmates per courtroom are transported to the Criminal Courthouse for hearings, trial, and other proceedings. Verified Compl. ¶ 74. Despite the relatively short distance between the MCCC and the Courthouse, logistical challenges in the highly-coordinated and choreographed process of

¹ Mercer County, like all counties, is responsible for housing and detaining inmates in accordance with regulations set forth by the Commissioner of the Department of Corrections. See N.J.S.A. 2C:43-10(c); N.J.A.C. 10A:31-1.1 et seq.

² The MCCC is located at 1750 River Road (County Route 29) in Hopewell Township, New Jersey. Verified Compl. ¶ 17.

³ The Mercer County Criminal Courthouse is located at 400 South Warren Street in Trenton, New Jersey. The Mercer County Office of the Public Defender, operated by Plaintiffs Krakora and OPD, is located at 210 South Broad Street, Trenton, New Jersey. Verified Compl. ¶¶ 17, 18.

preparing and transporting dozens of inmates abound, frequently leading to delays. Verified Compl. ¶¶ 76-78. Routinely, many courtrooms already work past 4:30 p.m., triggering overtime for many county employees. Verified Compl. ¶ 74.

MCCC's proximity to both the OPD regional office and the Courthouse is a crucial component of OPD's effective representation of individuals charged with crimes in Mercer County.

OPD staff attorneys and pool counsel⁴ represent the substantial majority of the individuals currently detained at the MCCC. Verified Compl. ¶ 13. It is OPD policy and practice for staff attorneys, pool attorneys, and investigators to routinely visit with, interview, and consult with their assigned clients in person. Verified Compl. ¶ 19. The Mercer County Criminal Courthouse has no space for contact consultation, and only very limited access to brief window visits, which do not allow for passing documents or reviewing electronic discovery. Verified Compl. ¶ 20. Thus, for substantive consultation with detained clients, assigned counsel are wholly dependent upon in-person contact at the MCCC's visiting area. Verified Compl. ¶ 20.

The Mercer County regional office of the OPD has 17 attorneys, 10 of whom have regular adult felony caseloads. Verified Compl. ¶ 21. The average caseload for an adult trial attorney is over 100 matters, including close to 75 indicted cases. Verified Compl. ¶ 21. Given these high caseloads, in-court time absorbs a substantial percentage of attorneys' working hours, leaving them with limited opportunities for in-office tasks essential to effectively representing their clients, including: written correspondence; legal research; drafting court submissions; reviewing thousands of pages of paper discovery and hours digital discovery; meeting with released clients, witnesses, and families; and various administrative duties. Verified Compl. ¶¶ 23, 24. Between these in-court and out-of-court demands, Mercer OPD attorneys struggle to find time to visit their

⁴ Plaintiffs Krakora and OPD are obligated to maintain a pool of qualified private counsel, and retain and appoint them to represent clients, pursuant to N.J.S.A. 2A:158A-7(c), (d); N.J.S.A. 2A:158A-10.

clients detained in the MCCC. Verified Compl. ¶¶ 22, 25.

Nevertheless, OPD attorneys manage to eke out time for attorney-client consultations. Verified Compl. ¶¶ 23, 25. These meetings run the gamut, from reviewing discovery to conferring on motions, to obtaining information for potential investigation, to discussing plea negotiations. Verified Compl. ¶ 25. They often visit with multiple clients in each jail visit, totaling several hours. Verified Compl. ¶ 25. Frequently, attorneys must add additional clients at the last minute because they receive new information from the State, or because the client has requested a meeting, often because a client has important new information regarding their case, or is interested in possibly resolving it; a client may also have experienced an emergency that requires immediate attention. Verified Compl. ¶ 25. In addition, regular visits are in and of themselves essential to maintaining the good client relationships necessary for effective representation. Verified Compl. ¶ 25. The proximity of the MCCC to both the courthouse and the OPD regional office makes these visits possible. Verified Compl. ¶¶ 25, 27. Having to travel substantial distances to meet with clients would make both regular and last-minute meetings virtually impossible for assigned counsel. Verified Compl. ¶¶ 25, 27.

Currently, OPD staff attorneys represent 147 pre-trial detainees housed at MCCC, including Plaintiffs Issiaha Bivens and Tyleeb Reese. Verified Compl. ¶¶ 15, 16. Since pre-trial detention in New Jersey is generally reserved for individuals facing the most serious charges, which invoke the most severe sentences, individuals detained pre-trial require substantially more frequent and longer attorney-client visits. Verified Compl. ¶ 26. For example, Plaintiff Bivens was charged with two counts of first-degree murder, among other charges. Verified Compl. ¶ 26A. To date, his Mercer County OPD attorney has been provided with hundreds of pages of paper discovery, as well as an abundance of digital discovery, including: 7 video statements; 2

surveillance videos from Trenton businesses; 11 law-enforcement body camera videos; 30 hours of surveillance videos from various telephone poles in Trenton; 2 audio clips of law-enforcement dispatch; 13 media files containing recorded phones calls from the MCCC; and multiple “shot spotter”⁵ recordings from various sites in Trenton. Verified Compl. ¶ 26A. In order to thoroughly review this electronic discovery with Mr. Bivens, which can only be done in-person, his attorney has visited him 13 times in the MCCC since he was incarcerated on January 10, 2019, with each visit requiring hours of consultation. Verified Compl. ¶ 26A. Plaintiff Reese has also been charged with first-degree murder, among other charges, and he has been incarcerated at the MCCC since May 15, 2017. Verified Compl. ¶ 26B. Mr. Reese’s Mercer County OPD attorney has been provided with a total of 43 discs of electronic discovery, ranging from recorded video statements to law-enforcement body camera videos, all of which can only be thoroughly reviewed with Mr. Reese in-person in the MCCC. Verified Compl. ¶ 26B. To date, his attorney has visited him 8 times to review these materials, spending hours with him each visit. Verified Compl. ¶ 26B.

If Plaintiff Bivens’s and Reese’s OPD attorneys had to travel 60 miles, and well over an hour, from their office in Trenton to the HCCC, and then make the lengthy trek back again, they would not have been able to meet and confer with Plaintiff Bivens and Reese thirteen and eight times, respectively. Verified Compl. ¶ 27. It is only because of the proximity of the MCCC that such frequent, meaningful and necessary client-contact is possible. Verified Compl. ¶ 27.

In spite of the deleterious impact on individuals’ constitutional rights and the orderly administration of justice, Defendant County of Mercer contracts to close MCCC as a correctional facility and ship inmates to distant Hudson County.

On or about February 11, 2016, Mercer County Executive Brian M. Hughes announced a

⁵ The Shot Spotter system is designed to detect gunshots and determine their location. See, e.g., Alexandra S. Gecas, Note: Gunfire Game Changer Or Big Brother’s Hidden Ears?: Fourth Amendment And Admissibility Quandaries Relating To Shotspotter Technology, 2016 U. Ill. L. Rev. 1073, 1078-80 (2016).

pending contract with the County of Hudson to transfer the vast majority of Mercer inmates to the Hudson County Correctional and Rehabilitation Center (HCCC), and transform the MCCC into merely an intake and processing center for those going to or coming from the HCCC. Verified Compl. ¶¶ 33-35; Ex. B at 33, 45-47. Shortly thereafter, in response to overwhelming criticism, Defendant Mercer County Board of Chosen Freeholders contracted with NW Financial Group, LLC — a Hudson County based consulting firm with significant connections to Defendant County of Hudson and the HCCC itself — for further study. Verified Compl. ¶¶ 36, 37.⁶

On or about September 10, 2019, NW Financial Group, LLC produced a report entitled “Mercer County Correction Center Cost Analysis,” recommending that Mercer sign a contract to house detainees at HCCC. Verified Compl. ¶ 38; Ex. A. at 1-29. As its title suggests, the report focused exclusively on cost, and failed to take into account significant logistical challenges, as well as the impact on clients’ constitutional rights and on the administration of justice in either Mercer or Hudson Counties. Verified Compl. ¶ 38. And despite being a “cost analysis,” the report failed to account for, and/or substantially underestimated, expenses necessary regardless of whether inmates are transferred to HCCC. Verified Compl. ¶ 38; Ex. C at 55-57.

Nevertheless, on or about October 22, 2019, Defendant Mercer County Board of Chosen Freeholders adopted a resolution authorizing the execution of an “Agreement ... for the Provision of Hudson County Correctional Center Services” (“the Agreement”). Verified Compl. ¶ 40. On or about October 23, 2019, Defendant Hudson County Board of Chosen Freeholders adopted a resolution authorizing the Agreement. Verified Compl. ¶ 41. The Agreement, which was not

⁶ See also, e.g., Kevin Shea, Officers, Mercer/Hudson jail plan consultants have Hudson ties, union says, NJ.COM (Posted December 14, 2017; updated January 16, 2019), https://www.nj.com/mercer/2017/12/consultants_studying_mercerhudson_jail_plan_have_t.html; Kevin Shea, Officers, supporters rip Mercer jail plan at packed meeting, NJ.COM (Posted February 24, 2016; updated January 17, 2019), https://www.nj.com/mercer/2016/02/officers_supporters_rip_mercer_jail_plan_in_packed.html

released to the public until after the votes, consists of a signed but undated, 13-page contract and four “Exhibits.” Verified Compl. ¶ 40; App at 59-113.

The Agreement contemplated and intended that Defendant County of Mercer will close significant portions of the MCCC and contract with Defendant County of Hudson for the housing of all inmates, effective January 1, 2020. Verified Compl. ¶ 42; Ex. C at 67. The Agreement calls for Defendant County of Hudson to house a minimum of 300 Mercer inmates,⁷ with the County of Mercer providing transportation between HCCC and the courthouse, as well as transporting those “released on bail” back to Mercer County to retrieve property. Verified Compl. ¶¶ 42-44; Ex. D at 6-70. While NW Financial LLC’s cost-analysis report states that Defendant County of Mercer plans to continue to use and staff MCCC at a reduced level in order to process individuals going to or coming from HCCC and to “house inmates who have court appearances,” the Agreement itself is silent on this topic and anticipates daily transport. Verified Compl. ¶ 45. Ex. A. at 16. MCCC Warden Charles Ellis has himself repeatedly declared that the transportation of Mercer inmates will be dealt with “on the fly,” suggesting that no plan has been put in place. Verified Compl. ¶ 45.

Under the terms of the Agreement, Mercer County inmates will be housed in distant HCCC without any further action by Defendant Mercer County Board of Chosen Freeholders, or the opportunity for review by the Superior Court. Verified Compl. ¶ 46. The terms of the Agreement also allow the County of Hudson to transfer Mercer inmates from HCCC to other, unnamed facilities, so long as it has the County of Mercer’s “permission.” Verified Compl. ¶ 47. Ex. D at 111. This too would occur without opportunity for review by the Superior Court. Verified Compl. ¶ 48. The Department of Corrections (DOC) has not approved of the Agreement, nor was it even

⁷ The current total census for individuals housed at MCCC is 336. Verified Compl. ¶ 14.

notified or consulted by any of the Defendants prior to entering into the Agreement. Verified Compl. ¶ 91.

The Impact on Effective Legal Representation

The HCCC already houses almost 1000 people, including more than 500 pre-trial detainees, hundreds of immigration detainees, and more than 100 federal pre-trial detainees. Verified Compl. ¶ 28. Only seven rooms at HCCC afford the minimal privacy required for confidential consultation. Verified Compl. ¶ 29. At any given time, the seven rooms at HCCC are generally all occupied – either by other defense attorneys, immigration attorneys who generally use the visitation rooms for hours on end, or even clergy who may also access the rooms to meet with inmates – providing extremely limited and inadequate space for attorney-client visitation for its current population. Estimated wait time is anywhere between a half an hour up to two hours, more if an inmate is in “lock-up” or protective custody. Verified Compl. ¶¶ 29-31. In addition, HCCC is chronically understaffed, and injecting 300 or more additional inmates threatens to further compromise, and indeed overwhelm, the attorney-client visiting area. Verified Compl. ¶ 32.

The Agreement provides no specific information regarding attorney visits, but correspondence between Defendants indicates that a single room will be made available at HCCC for attorney consultations with Mercer clients. Verified Compl. ¶¶ 51, 53; Ex. D at 64, 71. OPD attorneys will need to share this space with private attorneys, and potentially others such as clergy. Verified Compl. ¶¶ 30, 53; Ex. D at 64. In addition, HCCC policies, including limiting legal mail access to a flash drive reviewed by HCCC staff, will further infringe upon the attorney-client relationship and confidential communications. Verified Compl. ¶¶ 54, 55; Ex. D at 64.

Separate and apart from these significant concerns, the remote location of HCCC will also

greatly impair access to counsel for Mercer inmates housed there. Verified Compl. ¶ 56. As discussed above, the OPD represents most of the inmates at MCCC, including 147 pre-trial detainees represented by OPD staff attorneys. Verified Compl. ¶¶ 13-15. Given caseloads and limited resources, staff attorneys at the Mercer OPD struggle now to find time to visit clients housed only 12 miles away at the MCCC. Verified Compl. ¶¶ 18, 21-25.

In comparison, a round trip from the Mercer County OPD (and the Criminal Courthouse) to HCCC in Kearney is about 120 miles. Verified Compl. ¶ 57. Depending on the time of day, this entails between two and more than four hours by car, over some of the most congested highways in New Jersey. Verified Compl. ¶ 57. Heavy traffic or other road delays due to weather, construction, or car accidents only increase the required travel time. Verified Compl. ¶ 57. Given current HCCC wait times and the commute, it will take an OPD staff attorney from Mercer approximately four-and-a-half hours – the greater part of a workday – to meet with a single client for merely 45 minutes. Verified Compl. ¶¶ 58-59.

As a result, OPD trial attorneys would be forced to allot a full day, or even two, per week to meet with clients housed at HCCC, even if they are able to schedule multiple client meetings in a single day. Verified Compl. ¶ 60. Having to set aside such a substantial block of time to meet with detained clients at HCCC will necessarily limit, if not entirely impede, Plaintiffs' ability to provide effective representation to the indigent Mercer County defendants housed in Hudson County. Verified Compl. ¶ 61. Not only will needed, frequent meetings be virtually impossible, but even a reduced number of in-person visits will require OPD attorneys to increasingly ration their already limited time. Verified Compl. ¶ 61. Such an increased demand on attorney time will also significantly impede attorneys' ability to meet with non-incarcerated clients, witnesses, clients' families, and prepare for all of their clients' cases. Verified Compl. ¶ 62.

Video-conferencing is a wholly inadequate substitute for in-person visits. Verified Compl. ¶ 63. Often, attorneys must review voluminous discovery with their clients such as documents and photographs, which must be passed back and forth, and electronic discovery, the majority of which must be reviewed with a client on OPD computers because jail laptops lack the required programs. Verified Compl. ¶ 63. In addition, HCCC requires 24 hours' notice to even use video conferencing, regardless of the urgency of an attorney's request. Verified Compl. ¶ 64. This will make last-minute consultations impossible, including with clients prior to their detention hearings. Verified Compl. ¶ 64.

The Impact on Plaintiffs' Ability to Maintain Family Contact and Support — Critical to Preparing a Defense

Maintaining contact with and support of family members and friends outside the jail is an important component of preparing a defense in a criminal case. Verified Compl. ¶ 65. Family and friends provide vital moral and logistical support to the defense. Verified Compl. ¶ 65. Plaintiff Bivens, for example, has received approximately 8 visits from various family members since he has been detained at the MCCC earlier this year, and Plaintiff Reese has been visited almost 24 times by family and friends. Verified Compl. ¶¶ 26, 66. This has aided Mr. Bivens's and Mr. Reese's morale; but more importantly, these visits have concretely aided their defenses by allowing for the exchange of information and the identification and location of relevant witnesses, documents, and other evidence. Verified Compl. ¶ 66.

The planned transfer of MCCC inmates will render such contacts substantially more expensive, difficult and infrequent. Verified Compl. ¶ 67. The Agreement specifically states that Hudson has no responsibility to arrange, or even facilitate transportation for family or other loved ones who wish to visit a Mercer County inmate, placing the burden entirely on them. Verified Compl. ¶ 67; Ex. D at 71. Furthermore, the visiting policy at HCCC is in constant flux, frequently

prohibiting any in-person personal visits with family or friends, and instead only allowing video calls. Verified Compl. ¶ 68. Not only is this an inadequate substitute for seeing and communicating in person with a loved one,⁸ but families and friends are charged \$4 per 10 minutes for a video call, cost-prohibitive for many OPD clients and their families. Verified Compl. ¶ 68. Additionally, because the HCCC's web-based video-conferencing requires both internet access and access to a computer, smart-phone or tablet, those who do not have their own internet-capable devices and reliable internet access have no choice but to travel to the HCCC to use the HCCC's equipment. Verified Compl. ¶ 69. Even those with access to their own devices and internet will be forced to travel to the HCCC whenever there is an outage of the video-conferencing program. Verified Compl. ¶ 69.

Like OPD attorneys, family and friends from Mercer County would need to drive between two and more than four hours, travel at least 100 miles, and pay over \$18.00 in tolls to get to the HCCC. Verified Compl. ¶ 70. For those dependent on public transportation, travel times and expense might be double. For example, a family member from Trenton would face a more than two-and-a half to five-hour roundtrip, with at least four transfers, at a cost of \$31.40 to \$36.90. Verified Compl. ¶ 70.

Both experience and research indicate that inmates who are housed near home have a greater chance of being released early and a lesser chance of returning to jail.⁹ Verified Compl. ¶

⁸ See, e.g., American Bar Association, Letter of Support for Bill 20-122, Video Visitation Modification Act (June 19, 2013), available at www.americanbar.org/content/dam/aba/uncategorized/GAO/2013june19_devisitation_l.authcheckdam.pdf (citing studies supporting position that video visitation are not a substitute for, and should not "replace[,] critical in-person contact visits").

⁹ See, e.g., Daniel P. Mears, et al, Prison Visitation and Recidivism, 29 Just. Q. 888 (2012) (finding that for inmates serving 12 months or less, visitation reduced generally recidivism, and increased number of visits led to even greater reduction in recidivism); Minnesota Department of Corrections, The Effects of Prison Visitation on Offender Recidivism (November 2011) (finding that a single visit reduces recidivism by 13% for new crimes and 25% for technical violations), available at https://mn.gov/doc/assets/11-11MNPrisonVisitationStudy_tcm1089-272781.pdf; Margaret DiZerega, Coaching Packet, Engaging Offenders' Families in Reentry (2010), (citing numerous studies demonstrating that increased contact from family and loved ones during incarceration leads to lower recidivism and better post-release outcomes), available at <https://cepp.com/wp-content/uploads/2015/>

71. Mercer County inmates, housed hours from family, friends, and counsel, will thus face longer sentences and greater likelihood of reincarceration as a result of Defendants' actions. Verified Compl. ¶ 71.

The Impact on the Courts and the Administration of Justice

Historically, inmates brought to the Mercer County Criminal Courthouse from facilities outside of Mercer have arrived late due to lengthy delays and slow movement to court. Verified Compl. ¶ 75. Indeed, as explained above, delays are common even when inmates are only being brought from the nearby MCCC. The remote housing of Mercer inmates more than 60 miles away will certainly impede the Judiciary's ability to conduct court proceedings effectively, both in Mercer County and Hudson County. Verified Compl. ¶¶ 72-82.

The Agreement provides for daily transportation of Mercer inmates who have court appearances, and requires that Hudson have them "dressed and ready for pick up by 6 a.m." Verified Compl. ¶ 73; Ex. D at 85. Even if the HCCC were able to have all inmates "ready for pick up by 6 a.m.," there would be additional time spent presenting and checking credentials, along with the time-consuming task of actually bringing inmates to the transport vehicles and securing them inside. Verified Compl. ¶ 79; Ex. D at 101. Even in ordinary traffic conditions, the drive will take between an hour and two hours if leaving precisely at 6:30 a.m., and even longer with a later departure time. Verified Compl. ¶ 73; Ex. D at 85. Furthermore, if Mercer inmates receive priority, Hudson inmates will be delayed in appearing in the Superior Court of Hudson County. Verified

12/Engaging-Offenders-Families-in-Reentry.pdf; Mike Bobbitt & Maita Nelson, Vera Institute of Justice Issues In Brief, The Frontline: Building Programs that Recognize Families' Role in Reentry (September 2004) (explaining that reentry programing "is most effective when it begins in the institution and continues in the community," but this is even more difficult when inmates are housed in locations far from family and difficult to access by public transportation), available at http://www.vera.org/downloads/Publications/the-front-line-building-programs-that-recognize-families-role-in-reentry/legacy_downloads/IIB_Front_line.pdf.

Compl. ¶ 81.

The court-day protocol is time- and labor-intensive, taking more than two hours at the MCCC itself.¹⁰ Verified Compl. ¶ 77. Thus having every inmate “ready for pick up by 6 a.m.” from the HCCC will require an extremely early wake up. This need to wake detainees at extreme hours will greatly diminish their opportunities for sleep, self-care, and grooming, and ultimately deprive them of the ability to make a reasonable court appearance and to participate fully in their defense. Verified Compl. ¶ 80. This deprivation is compounded for an inmate on trial who is subjected to this routine day after day. Verified Compl. ¶ 80.

The planned transfers will undoubtedly delay the proceedings themselves. But the proceedings will be further delayed, or adjourned altogether, because Mercer inmates will be unprepared to make informed decisions about their cases since they will not have had the opportunity for meaningful consultation with their court-appointed Mercer County OPD attorney. Verified Compl. ¶ 82. Due to the inevitable transportation delays and the unpreparedness of the defense, the remote housing of Mercer inmates will simply prolong the entire adjudicatory process. Verified Compl. ¶ 82.

Neither the DOC nor the Judiciary has approved of the transfer for Mercer inmates, en masse, to the HCCC.

The Commissioner of the DOC is responsible for, among other things, coordinating the

¹⁰ Currently, when Mercer inmates must appear in court, they are awoken at 6:00 a.m. by sheriff’s officers in the MCCC. Verified Compl. ¶ 77. They have about 30 minutes to dress and ready themselves for the day before they are escorted from their respective wings or “pods” of the jail to a common holding cell on the main floor. Verified Compl. ¶ 77. From here, two inmates at a time are extracted from the holding cell, strip searched and shackled, and then escorted into a large waiting room. Verified Compl. ¶ 77. Once this process is completed for every inmate attending court, all the inmates are walked from the waiting room outside to the transport busses or vans. Verified Compl. ¶ 77. They are finally delivered to the Mercer County Criminal Courthouse between 8:30 and 9:00 a.m., at which time they are secured in holding cells in the basement of the courthouse and fed breakfast. Verified Compl. ¶ 77. Finally, they are escorted to holding cells behind the courtrooms in which they are due to appear. Verified Compl. ¶ 77.

need for correctional facilities, and regulating minimum standards for the housing of all inmates within the State of New Jersey, including those in local correctional facilities such as the MCCC. Verified Compl. ¶¶ 83-86. As such, the Commissioner issues rules and regulations governing the operation of adult county correctional systems. Verified Compl. ¶¶ 83-85; See N.J.S.A. 30:1B-6, -10; N.J.A.C. 10A:31-1.1 et seq. State regulations require that prior to counties undergoing major changes to the appearance or condition of an existing correctional facility, they must submit such plans for approval by the Commissioner of the DOC. Verified Compl. ¶ 84.

Furthermore, regulations require that adult county correctional facilities be geographically accessible to the officers of the court, attorneys and law enforcement officers and members of the public. Verified Compl. ¶ 89. This includes being accessible by public transportation. Verified Compl. ¶ 89; N.J.A.C. 10A:31-3.4(b). The regulations also specifically provide that sufficient space for contact and non-contact visits must be provided in all adult county correctional facilities. Verified Compl. ¶ 90. There must be interview areas that allow for confidential consultation with attorneys, as well as visitors, clergy, and parole and probation officers. Verified Compl. ¶ 90; N.J.A.C. 10A:31-3.14(a), (b); N.J.A.C. 10A:31-3.4(s).

Not only did Defendants fail to seek DOC approval for the substantial closure of MCCC, but they did not even notify the DOC of this major change prior to entering in the Agreement. Verified Compl. ¶ 91. Even if such permissions had been sought, Plaintiffs reasonably believe that inmates' access to counsel was not adequately considered; prior to the County Executive's 2016 decision to pursue this contract with Hudson County, no one in authority at Mercer County (or the DOC) received or considered any submission or evidence from the OPD as to effect on attorney-client relations that would result from the closing of the MCCC. Verified Compl. ¶ 92. Additionally, there was no consideration of the impact on attorney-client relations in the consulting

firm's report, upon which the Freeholders heavily relied deciding to approve the contract with the County of Hudson. Verified Compl. ¶ 92.

In addition, no order authorizing the wholesale transfer of inmates sentenced pursuant to N.J.S.A. 2C:43-10(c) has been secured by Defendants, and neither the assignment judge of Mercer County nor the sentencing judge for any individual inmate has designated the HCCC as an appropriate contractor for the housing of any Mercer County inmates, as required by N.J.S.A. 30:8-48.2 and N.J.S.A. 2C:43-10(g). Verified Compl. ¶¶ 94-97.

The Mercer County Board of Chosen Freeholders, in concert with the other Defendants, have determined that they may make this decision without the approval of either the DOC or the Superior Court. Verified Compl. ¶¶ 11, 46, 48, 91, 92, 94-97. Although by its terms, the Agreement is to take effect on January 1, 2020, it now appears that Defendants may begin transporting inmates to the HCCC prior to the effective date. Verified Compl. ¶ 49. By the new year, and likely sooner, Defendants will begin shipping hundreds of Mercer inmates far from counsel, the court, and loved ones, unless this Court intervenes.

LEGAL ARGUMENT

I. THE COURT SHOULD PRELIMINARILY ENJOIN DEFENDANT COUNTY OF MERCER FROM TRANSFERRING INMATES IN THE MERCER COUNTY CORRECTION CENTER TO THE HUDSON COUNTY CORRECTIONAL CENTER, AS PLAINTIFFS SATISFY THE CRITERIA FOR SUCH RELIEF UNDER CROWE V. DEGIOIA.

A preliminary injunction is justified under Rule 4:52-1 when: “(1) relief is needed to prevent irreparable harm; (2) the applicant's claim rests on settled law and has a reasonable probability of succeeding on the merits; and (3) balancing the relative hardships to the parties reveals that greater harm would occur if a stay is not granted than if it were.” Garden State Equal. v. Dow, 216 N.J. 314, 320 (2013) (citing Crowe v. De Gioia, 90 N.J. 126, 132-34 (1982)). The

Plaintiffs in this matter have satisfied each of the Crowe factors for a preliminary injunction. Once the transfers begin, Mercer County inmates will suffer irreparable harm by being deprived of necessary in-person time with their OPD attorneys that they can never get back. Their claims rest on the settled and fundamental right of every criminal defendant to effective assistance of counsel, which will be denied by Defendants' actions. And the balance of the hardships to the parties most certainly weighs in Plaintiffs' favor, as a preliminary injunction will simply force Defendant County of Mercer to continue during this litigation to do what it has done for over a century: house Mercer County inmates in its jail.

A. Plaintiffs Will Suffer Immediate And Irreparable Harm If Defendants' Planned Transfers Are Permitted To Occur Because They Will Be Deprived Of In-Person Time With Their Attorneys And Loved Ones Which They Can Never Get Back And Which Is Vital And Necessary To Preparing A Criminal Defense.

Time again, the courts have reaffirmed the principle that, as a matter of law, a violation of a constitutional right satisfies the "irreparable harm" prong of the Crowe test. *See, e.g., Elrod v. Burns*, 427 U.S. 347, 373-74 (1976); *Mitchell v. Cuomo*, 748 F.2d 804, 806 (2d. Cir. 1984) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."); *Cerro Metal Prods. v. Marshall*, 620 F.2d 964, 974 (3d. Cir. 1980) ("an inspection violating the Fourth Amendment would constitute irreparable injury for which injunctive relief would be appropriate"). Plaintiffs set forth allegations and evidence, by way of verified complaint, that Defendant County of Mercer's closing of substantial portions of the MCCC and its transfer of hundreds of current and future inmates to Hudson County will violate their federal and state constitutional rights to effective assistance of counsel, a speedy trial, and due process and equal protection of the law. In fact, infringements of these constitutional rights in particular have resulted in the type of equitable relief Plaintiffs seek here. *See Cobb v. Aytach*, 643 F.2d 946, 961 (3d Cir. 1981). Thus, there is no question that Plaintiffs have amply satisfied the

“irreparable harm” prong of the Crowe test.

In concrete terms, if the Court does not enjoin Defendants from commencing with the planned transfers, Mercer County inmates will be unable to meet and confer with their OPD attorneys. The prohibitive travel time and distance alone will make it extremely difficult for those attorneys to visit their clients in the HCCC, let alone with the regularity needed to effectively represent clients charged with serious crimes such as first-degree murder, particularly those whose cases involve an abundance of digital discovery that must be reviewed -- as in the cases of both Plaintiff Bivens and Plaintiff Reese. But when this prohibitive travel time and distance is coupled with the already tight windows in which time-strapped Mercer OPD attorneys can visit their clients at the MCCC due to their other commitments in Mercer County, and the existing deficiencies at the HCCC, Mercer OPD attorneys will simply be unable to see their clients housed at the HCCC, and the rights of those clients to receive effective assistance of counsel will not only be impacted, but eviscerated entirely. To be sure, the impact of inadequate access to counsel is profound at any stage, but it is particularly damaging for someone who is detained pre-trial. In fact, “[a]s the Supreme Court has recognized, ‘to deprive a person of counsel during the period prior to trial may be more damaging than denial of counsel during the trial itself.’” Benjamin v. Fraser, 264 F.3d 175, 185 (2d Cir. 2001) (quoting Maine v. Moulton, 474 U.S. 159, 170 (1985)). A Mercer inmate’s time with his OPD attorney, or lack thereof, is something he will never get back; stated differently, it will cause that inmate irreparable harm.

And lack of time with their attorneys is just one harm that will befall inmates of Mercer County. Inmates rely heavily on visitation from their family and friends for not only emotional support, but also to assist in mounting a defense. Family and friends can assist by identifying witnesses or simply providing useful information to a defendant. Plaintiff Reese, for example, has

been visited approximately 24 times by family or friends. While these visits no doubt help him get through the crisis of being charged with murder, they have also aided him in mounting a defense to the charge. His family would not be able to continue with such visits if he were housed 70 miles away from the MCCC in Kearney, New Jersey. Just as he would be deprived of consultation time with his attorney, along with the irretrievable benefits of that time, the time with his family and friends is also something Plaintiff Reese can never get back.

To be sure, in order to receive preliminary relief, the irreparable harm cannot be speculative. See Peregoy v. Peregoy, 358 N.J. Super. 179, 203 (App. Div. 2003); see also Revel AC, Inc. v. IDEA Boardwalk LLC, 802 F.3d 558, 571 (3d. Cir. 2015) (“To establish irreparable harm, a stay movant must demonstrate an injury that is neither remote nor speculative, but actual and imminent.”). Here, however, there is nothing speculative about what will happen if Defendants’ planned transfers are permitted to occur. It is a verified fact that given their voluminous caseloads, and their myriad responsibilities both in and out of court, Mercer OPD attorneys have a very limited amount of time to visit their clients in the MCCC, and they are *only* able to accomplish such visits because the MCCC is located 12 miles from their office in Trenton. It is also a verified, and indeed, utterly indisputable fact that the HCCC is 60 miles from their office in Trenton and 70 miles from the MCCC. It is also a verified fact that Hudson County OPD attorneys currently experience long wait times to see their clients in the HCCC, sometimes in excess of two hours. These facts are real and concrete and have been verified by the managers of the Mercer and Hudson County OPD offices, Deputy Public Defenders Jessica Lyons and Mary Ciancimino, respectively. The combination of these verified facts will make it virtually impossible for Mercer County OPD attorneys to visit their clients in Hudson County. Once Plaintiff Bivens and Reese are shipped off to Kearny, their attorneys will not be visiting them there -- and there is

nothing speculative about it.

B. *Plaintiffs' Claims Rest on Settled Law and Have a Reasonable Probability of Succeeding on the Merits On Each of Its Claims.*

The second Crowe factor requires the applicant to show that its “claim rests on settled law and has a reasonable probability of succeeding on the merits.” Garden State Equal., 216 N.J. at 320. “Temporary relief should be withheld when the legal right underlying the claim is unsettled.” Crowe, 90 N.J. at 133. Under both the United States Constitution and the New Jersey State Constitution, the law is clear and settled: criminal defendants have the right to effective assistance of counsel, which includes the right to reasonable access to counsel. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cobb, 643 F.2d at 957-58; State v. Fritz, 105 N.J. 4 (1987). Because the planned transfers of Mercer County inmates to a remote facility, hours away with inadequate facilities and policies, will render it virtually impossible for those individuals to receive effective assistance of and reasonable access to counsel, Plaintiffs are reasonably likely to succeed on their claim that Defendants’ planned transfers will violate those constitutional rights. And, as discussed further below, Plaintiffs are also reasonably likely to succeed on each and every additional claim in their Verified Complaint, including that the planned transfers will violate their rights to a speedy trial, due process and equal protection of the law, and multiple regulatory and statutory provisions concerning the oversight of county inmates.

It is well-settled law that the right to counsel is a fundamental right guaranteed by the Sixth Amendment to the United State Constitution. Cobb, 643 F2d at 957-58. Indeed, “[t]he right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.”” Gideon v. Wainwright, 372 U.S. 335, 344 (1963). Moreover, the right to counsel presumes the right to *effective assistance* of counsel. Strickland, 466 U.S. at 687-88.

Obstacles to a pre-trial detainee’s access to counsel, such as detention at an unreasonable

distance from the courthouse and counsel, or the imposition of unreasonable waiting times on attorney-client visits, have been held to violate both the constitutional guarantees of the Sixth Amendment right to effective assistance of counsel and the Sixth Amendment's right to a speedy trial. Cobb, F.2d at 959-60. For instance, in Cobb, the Third Circuit upheld injunctive relief for pre-trial and post-trial (but pre-sentenced) detainees being shipped from Philadelphia to various facilities around the Commonwealth. In granting such relief, the court relied on the findings of fact of the U.S. District Court, which painted an eerily similar portrait to the situation here in Mercer County:

The Defender Association of Philadelphia represents 80% of the incarcerated defendants in Philadelphia County prisons. Prior to trial the assistant defender representing a defendant goes to the prison and interviews him respecting the facts of the case, possible witnesses, his background and psychiatric services. [These] interviews are essential to the defense because they allow the attorney to develop the necessary attorney-client relationship and to prepare the case. It is often necessary for these attorneys to interview clients at the post-trial stage in order to prepare for sentencing. The Defender Association of Philadelphia . . . lacks the resources of money and time to conduct either type of attorney-client interview at the Commonwealth institutions distant from Philadelphia to which transfers were made. Most of the untried inmates who were transferred in 1973 and represented by the Defender Association were deprived of these pretrial interviews. On several occasions, transferees missed court appearances and parole hearings when they were not returned to Philadelphia on time. Due to continuances and the prolongation of the pretrial period some transferred inmates spent more time in pretrial incarceration than the eventual length of their sentences.

[Id. at 951].

The Third Circuit also observed that the transfers removed inmates from proximity to family “family and friends, which curtailed the ability of the defendants to communicate with potential witnesses through those most likely to be willing to assist.” Id. at 960. As a result, the court held that the transfers violated the inmates’ rights to effective assistance of counsel, to a speedy trial, and to assist in one’s own defense and, therefore, enjoined the transfers. Id. at 961-62.

The Cobb court also saw no difference between pre- and post-trial (but pre-sentenced) inmates under the Sixth Amendment:

Unsentenced inmates retain important sixth amendment rights to speedy trial and effective assistance of counsel. It would be a strained construction of the speedy trial clause to hold that it protected the right to a prompt trial but permitted indefinite postponement of sentencing of a defendant unable to make bail. Most significantly, however, sentencing is a critical stage of a criminal proceeding to which the sixth amendment's guarantee of the effective assistance of counsel applies.

[Cobb, 643 F.2d at 962 (citations omitted)].

Relying on Cobb, other federal courts came to similar conclusions regarding the remote incarceration of inmates. See Covino v. Vermont Dep't of Corr., 933 F.2d 128, 130 (2d Cir. 1991) (reversing District Court's order for summary judgment and instructing court to address "whether the transfer [56 miles away] unconstitutionally impaired Covino's sixth amendment right of access to his trial counsel"); Copeland v. Mercer Cty. Corr. Ctr., No. 17-5780, 2019 U.S. Dist. LEXIS 127754 (D.N.J. July 30, 2019) (finding that plaintiff's complaint that his transfer from Mercer to Essex County violated his constitutional rights survived summary judgment because, inter alia, there was evidence that transfer resulted in at least two missed court appearances, difficulty communicating with his public defender, and denial of opportunity to be interviewed for his pre-sentence report); Washington v. City of New York, No. 18-Civ-12306, 2019 U.S. Dist. LEXIS 77130 (S.D.N.Y. 2019) (denying motion to dismiss where plaintiff argued that transfer to facility 160-miles distant impermissibly impaired visitation with counsel).

Furthermore, a jail's regulations, conditions, and policies violate the Sixth Amendment when they "unreasonably burden[] the inmate's opportunity to consult with his attorney and to prepare his defense." Benjamin v. Fraser, 264 F.3d 175, 179 (2nd Cir. 2001). In Benjamin, "defense attorneys routinely face[d] unpredictable, substantial delays in meeting with clients detained at

Department facilities” throughout New York City. Id. at 179. The attorneys were “forced to wait between 45 minutes and two hours, or even substantially longer, after arriving at a facility to see a client,” which was due to a number of factors, such as the facilities having “few counsel rooms relative to the number of detainees housed at the facility” and that “certain detainees may not be moved to counsel rooms without escort officers.” Ibid. The Court of Appeals for the Second Circuit held that these substantial delays violated the detainees’ right to counsel under the Sixth Amendment. Id. at 188.

With respect to the State constitution, there is virtually no published case law on the issue of the remote incarceration of inmates (as no county has ever been so bold as to transfer hundreds of inmates 60 miles across the state without any mechanism or plan to ensure the continuation of in-person attorney-client visits). However, New Jersey courts have vigorously protected an indigent defendant’s right to counsel, in many cases beyond the protections of the Sixth Amendment to the U.S. Constitution. As explained by our Supreme Court:

Although the language of Article 1, Paragraph 10 of the New Jersey Constitution is virtually identical with that of the Sixth Amendment, we have held in other contexts that the State Constitution affords greater protection of the right to counsel than is provided under the federal constitution So steadfast has been our commitment that we have secured the right to counsel in settings in which that right has not been assured by federal law. For example, the right to counsel of indigent defendants has existed in this state since 1795 -- more than 150 years before the United States Supreme Court put the indigent’s right to counsel on a federal constitutional basis. Indeed, this State recognized an indigent’s right to counsel not only before the United States Supreme Court, but before any other state had recognized that right.

[State v. Sanchez, 129 N.J. 261, 275 (1992) (citations omitted)].

Thus, there is thus good reason to believe that our courts would and should treat the issue even more favorably than the federal courts.

Here, the majority of inmates, including pretrial and post-trial (yet unsentenced) detainees, in the MCCC are clients of the Mercer County regional Office of the Public Defender who are

represented by staff attorneys from that office. To effectively represent their clients, these staff attorneys depend upon in-person access to their detained clients that does not involve hours of travel and waiting time. In fact, the *only* reason that such access is currently possible is because the MCCC is located a mere 12 miles, and a 15- to 20-minute drive, from their office in Trenton and from the courthouse. Between their in-court and out-of-court demands, Mercer OPD staff attorneys are able to find or create small windows of time to drive to the MCCC and meet with a client “respecting the facts of the case, possible witnesses, his background and psychiatric services,” as well as review discovery (particularly digital discovery), all of which can only be done in-person. Cobb, 643 F2d at 951. “These interviews are essential to the defense because they allow the attorney to develop the necessary attorney-client relationship and to prepare the case.” Ibid.¹¹

But if Mercer OPD attorneys are required to drive an extra 100 miles through some of the most congested highways in New Jersey, they simply will not be able to conduct client interviews -- at least not at the expense of ignoring every other professional responsibility waiting for them in Mercer County, including court appearances. And even if those attorneys did drive to Kearny to conduct an interview, they would arrive there and be faced with upwards of a 2 hour wait due to the HCCC’s inadequate visitation policies and space -- which alone is a Sixth Amendment violation. Each of these results standing alone, but certainly together, would result in the significant

¹¹ This is particularly problematic in light of the Criminal Justice Reform Act (“CJRA”), N.J.S.A. 2A:162-15 to -26, which overhauled the existing bail system and created a system that “favors pretrial release and monitoring as the presumptive approach and limits preventive detention to defendants who actually warrant it.” State v. C.W., 449 N.J. Super. 231, 249 (2017) (internal quotation marks omitted). Under the CJRA, a court ordinarily “shall make a pretrial release decision for the eligible defendant . . . [no] later than **48 hours** after the eligible defendant’s commitment to jail.” N.J.S.A. 2A:162-16b(1) (emphasis added). And even when the State moves for pre-trial detention upon arrest, the hearing on such a motion is also subject to tight timeframes, as it must occur “no later than the eligible defendant’s first appearance,” or “within three working days of the date on which the prosecutor’s [pretrial detention] motion was filed, unless the prosecutor or the eligible defendant seeks a continuance.” N.J.S.A. 2A:162-19d(1). Mercer OPD attorneys must therefore meet with their clients in the county jail almost immediately following their clients’ arrest (and certainly within the first 48 hours) to represent them at the detention hearings—a virtual impossibility if those clients are housed 60 miles away.

impairment, if not the total destruction, of Plaintiffs' right to effective assistance of counsel under the federal and state constitutions.

The curtailment of Mercer OPD attorneys' access to their clients housed in the HCCC will also have a ripple effect that impinges on other fundamental rights. By virtue of not meeting with their Mercer OPD attorneys, the Mercer County inmates housed in the HCCC will be completely unprepared to make any decisions about their cases, thus prolonging their incarceration as they wait to resolve their criminal cases in violation of the Sixth Amendment's guarantee to a speedy trial. The inevitable transportation delays and cancellations will further prolong the entire adjudicatory process.

In the end, shipping Mercer County inmates so far away from their communities, the venue of their case, and the locale of their counsel will destroy their access to counsel, isolate them from their family and friends, prolong their time of incarceration and make all their appearances in court the subject of a travel ordeal -- with attendant diminishments of energy, attention, grooming and ability to assist in their own defense. Given the impact of the transfers on Plaintiffs' Sixth Amendment right to counsel and to a speedy trial, the State and Federal Constitutions forbid these wholesale transfers to distant Hudson County.

Plaintiffs are also likely to succeed on their claims under the due process and equal protection guarantees of the Federal and State Constitutions – Count III of their verified complaint. The Equal Protection Clause as well as the Due Process provisions of the State and Federal Constitutions, operate to protect the accused from detention at distant jails. See Gideon v. Wainwright, 372 U.S. at 344 (“From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law.”).

At its core, the Equal Protection Clause of the Fourteenth Amendment requires all persons who are similarly situated to be treated alike. Guided by this principle, all classifications that governmental bodies create must be at a minimum “rationally related to a legitimate state interest.” City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 440 (1985). In other words, a legislative classification will be invalid if its “relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational.” Id. at 446. Similarly, due process demands at least a rational basis for all legislation burdening personal rights. See Obergefell v. Hodges, 574 U.S. ___, ___, 135 S.Ct. 2584, 2603 (2015).

New Jersey’s Constitution also forbids violations of equal protection and due process. Sojourner A. v. N.J. Dep’t of Human Servs., 177 N.J. 318, 332-33 (2003). Its doctrines are more flexible than federal law. In general, Article I, Paragraph I requires legislation that “distinguish[es] between two classes of people” to “bear a substantial relationship to a legitimate governmental purpose.” Lewis v. Harris, 188 N.J. 415, 443 (2006) (emphasis added). This analysis operates “on a continuum that reflects the nature of the burdened right and the importance of the governmental restriction.” Ibid. Accordingly, “the more personal the right, the greater the public need must be to justify governmental interference with the exercise of that right.” Ibid. “Unless the public need justifies statutorily limiting the exercise of a claimed right, the State’s action is deemed arbitrary.” Id. at 443-44.

Here, Defendants’ agreement creates a distinct class of county inmates in New Jersey – criminal defendants charged with crimes that occurred in Mercer County – and treats them differently than every other county inmate in the State. Unlike every other inmate in the State, this distinct class of individuals will no longer be able to meet and confer with a lawyer to prepare their legal defense. As previously indicated, no other county in the State has ever created a policy

whereby its criminal defendants are shipped 60 miles away from the county courthouse in which their cases are heard -- especially without any mechanism or plan to continue with their in-person access to a lawyer. Defendant Mercer County's only justification for creating this class of inmates and treating them so poorly is that it may save the County 3%, at best, of its annual budget. Ex. A at 22. That is most certainly not the type of "public need" that can justify stripping Plaintiffs of their fundamental right to effective assistance of counsel and to a speedy trial. Indeed, budgetary considerations or other economic factors play no role in defining a constitutional right, nor do they help determine if a violation of that right has occurred. See Watson v. City of Memphis, 373 U.S. 526, 537 (1963); see also Monmouth Cty. Corr. Institutional Inmates v. Lanzaro, 834 F.2d 326, 337 (3d Cir. 1987). Defendants' agreement violates the Federal and State guarantees to Due Process and Equal Protection of the law.

Finally, Plaintiffs should also prevail because in closing substantial portions of the MCCC and shipping the vast majority of inmates to the HCCC, Defendants have circumvented the authority of the New Jersey DOC and the Courts.

The Commissioner of the DOC, pursuant to statutory authority, N.J.S.A. 30:1B-10, has promulgated regulations regarding minimum standards for the care, treatment, government, and discipline of any person held in a county correctional facility, including the MCCC. Those regulations, found at N.J.A.C. 10A: 31-1.1 et seq., relate to nearly all aspects of the maintenance and administration of any New Jersey adult county correctional facility. Among the regulations is the requirement that any county, including the County of Mercer, must first request the approval of the DOC before it may begin the construction of a new facility or make major changes in the appearance or condition of any existing county adult correctional facility. The plans must meet the minimum standards established by the Commissioner of the DOC.

Additionally, the DOC must approve the transfer of individual inmates from a county jail to another facility other than a workhouse. In fact, N.J.S.A. 30:4-85.1 requires a transfer from a local county facility be made first to a state facility; then, if later determined by the DOC to be appropriate, the inmate may be transferred back to the original county jail, or placed in another county jail.

Also, adult county correctional facilities must be geographically accessible to the officers of the court, attorneys and law enforcement officers and members of the public. This includes being accessible by public transportation. N.J.A.C. 10A:31-3.4(b). The regulations also require that sufficient space for contact and non-contact visits must be provided in all adult county correctional facilities to allow for confidential consultation with attorneys, as well as visitors, clergy, and parole and probation officers. N.J.A.C. 10A:31-3.14(a), (b); N.J.A.C. 10A:31-3.4(s).

Here, Defendant County of Mercer neither sought nor received permission from the DOC to close substantial portions of its county jail, which would certainly constitute a major change to a condition of the facility. Likewise, Defendant's transfer plans clearly violate the statutes governing the transfer of county inmates. And its plan certainly does not account for the regulations (and constitutional guarantees) regarding a facility's proximity to the court, counsel, and public transportation, as well as adequate space for contact attorney visits. In a very real way, Defendant County of Mercer made the unilateral and capricious decision to enter into its agreement with the County of Hudson without any regard whatsoever for the DOC's role in the matter or for the regulations and laws that govern the housing and transfer of inmates in New Jersey.

With respect to the role of the Judiciary, the Superior Court of each vicinage has statutorily defined responsibilities over those persons sentenced to serve time in its local institution. N.J.S.A. 2C:43-10(c), for example, requires the Superior Court to commit persons sentenced to terms of

less than one year to the “common jail of the county, the county workhouse or the county penitentiary for the term of his sentence and until released.” Under 2C:43-10(g), no person serving a term of less than one year may be transferred from one county penal institution to another county penal institution without the authorization of, and an order of, the Superior Court. This regulation specifically requires “the board of chosen freeholders of such county” to seek the transfer order from the Superior Court. Ibid. And pursuant to N.J.S.A. 30:8-48.2, no county may contract with any other organization or entity for the housing of inmates (for the purpose of work release or vocational training) without the entity or organization first having been designated by the sentencing judge or the assignment judge in the county where the detainee was sentenced.

Here, as in the case with the DOC, Defendants did not seek or receive the approval of the Mercer County Superior Court before deciding to close substantial portions of the MCCC and ship hundreds of inmates to Hudson County. The regulations governing Superior Court oversight of the MCCC have plainly been violated, and Plaintiffs are likely to succeed on this claim as well.

C. *The Harm to Plaintiffs if the Injunction is Denied Greatly Outweighs the Harm to Defendants if the Injunction is Granted.*

The third Crowe factor requires a “balancing of the relative hardships to the parties.” Garden State Equal., 216 N.J. at 314. In this matter, Plaintiffs plainly will suffer the greater harm from the denial of injunctive relief, compared to what harm, if any, would result to Defendants from a granting of that relief. To say the least, movement of several hundred inmates from the MCCC will wreak immediate and irreversible havoc and upheaval upon the attorney-client relationships and infringe on, if not entirely eviscerate, the inmates’ rights to effective assistance of counsel.

On the other hand, Defendants will suffer, at most, some monetary disadvantage, if indeed the agreement turns out to be a “good deal” for the Counties of Mercer and Hudson. This, of course,

is at most a speculative possibility at this juncture, and will likely never come to fruition given that Defendants' cost analysis did not consider a number of expenses that will be necessary regardless of whether inmates are transferred to HCCC. Verified Compl. ¶ 39. Thus, there is simply no comparison between the vital constitutional interests at stake on the plaintiffs' side, on one hand, and the mere monetary considerations of the defendant's, on the other.

Plaintiffs clearly satisfy the third and final Crowe factor.

II. THE COURT SHOULD PRELIMINARILY ENJOIN DEFENDANT MERCER COUNTY FROM ITS PLANNED TRANSFERS TO MAINTAIN THE STATUS QUO DURING THE PENDENCY OF PLAINTIFFS' CIVIL ACTION, ESPECIALLY GIVEN THE PUBLIC IMPORTANCE OF THE ISSUE BEFORE THE COURT.

When considering the issuance of a preliminary injunction, courts should strive to preserve the status quo until the final outcome of the litigation, even if it means placing "less emphasis on a particular Crowe factor if another greatly requires the issuance of a remedy." Garden State Equal., 216 N.J. at 320. Further, "[w]hen a case presents an issue of 'significant public importance,' a court must consider the public interest in addition to the traditional Crowe factors." Ibid. (citations omitted).

In this matter, even if the Court questions the existence or strength of any one Crowe factor, it should still grant Plaintiffs a temporary stay of the transfers. As detailed throughout this submission and Plaintiffs' verified complaint, once the transfers take place, Mercer County inmates truly will be deprived of time with their attorneys, which they can never get back. This will make it difficult, if not impossible, for them to expeditiously resolve their criminal cases, and it also places them at an extreme disadvantage as compared to other inmates throughout the State. This should not be permitted to happen until the Court has at least fully examined the constitutional and statutory issues presented in this case. Moreover, the substantial closure of the MCCC, which has

been in existence for more than a century, and the transfer of its inmates to distant Hudson County, is certainly a significant issue of public importance. In fact, it is difficult to imagine a more important issue affecting the criminal justice system in Mercer County. Therefore, as instructed by our Supreme Court, the Court should disallow Defendant County of Mercer from taking any action until this important public issue is fully resolved by the Court.

CONCLUSION

Plaintiffs Bivens and Reese challenge the planned closing of substantial portions of the MCCC as a policy and practice that will imminently and irreparably violate their fundamental constitutional rights to effective assistance of counsel, to a speedy trial, and to due process and equal protection of the law.

Likewise, the OPD and Plaintiff Krakora, as representatives of all Mercer County inmates, assert their clients' rights and the OPD's own institutional, professional and statutory interest in access to their clients, in order to perform their statutory, constitutional and professional obligations to afford them constitutionally effective representation. The closure of substantial portions of the MCCC and shipment of hundreds of inmates to Hudson County will inflict immediate and irreparable harm to those interests and rights.

Plaintiffs challenge, by way of prerogative writ, the Freeholders' decision to transfer substantially all inmates, both pre-trial detainees and persons serving sentences of less than one year from the MCCC to the HCCC. This ultra vires act, taken in the form of an agreement between Defendants County of Mercer and County of Hudson, should be enjoined as violating both State statutory law governing the transfer of inmates serving sentences in county facilities, and of DOC regulations requiring notice to, and the approval of, the Commissioner of the DOC, before such a decision may be implemented.

To prevent the substantial constitutional and public harm that the closing of the MCCC will cause, the Court should grant a temporary and preliminary injunction restraining transfers of inmates from the MCCC pending full and fair hearing of this matter.

Respectfully,

s/ Lauren S. Michaels
Lauren S. Michaels, Esq.
Counsel to the Public Defender

s/ Fletcher C. Duddy
Fletcher C. Duddy, Esq.
Deputy Public Defender

NEW JERSEY OFFICE OF THE PUBLIC DEFENDER
ATTORNEYS FOR PLAINTIFFS

Dated: November 19, 2019

Exhibit A

MERCER COUNTY CORRECTION CENTER COST ANALYSIS

September 10, 2019

NW Financial Group, LLC

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Appendix A- Operational Assessment Report



Mercer County Correction Center

Executive Summary

NW Financial was retained to conduct this analysis to identify what fundamental factors are contributing to the costs of running the facility. The objectives of the study are to:

- Evaluate the actual costs of running the Mercer County Correction Center (“MCCC”) in 2018
- Identify patterns in the costs throughout the previous years
- Compare the various options the County has to reduce the costs of the MCCC
- Provide a recommendation on the most efficient steps the County should take to ensure the taxpayers are receiving the greatest economic benefit possible
- Acknowledge that other New Jersey counties have already closed or consolidated their correction facilities

We present the results of our analysis after carefully considering and evaluating financial statements, multiple independent evaluations, historic studies, recent examples, comparable analysis, and expert opinions.

Key Findings

- 1- Implementation of the Hudson Contract will **save Mercer County taxpayers \$12 million per year in the County Budget**
- 2- Implementation will **reduce personnel needs at the MCCC** from approximately 200 uniformed personnel to 122 uniformed personnel, a 57% reduction
- 3- The revised Mercer staffing will allow **all superior officers to remain** at the MCCC
- 4- The Hudson Contract will assure **all non-superior corrections officers will be offered positions at Hudson County Correction Center (“HCCC”)**
- 5- HCCC has expanded the days and hours of family visitation to inmates, including contact visits and video conferencing
- 6- Utilization of modern computer technology will allow **access to inmates at HCCC through internet connection** by both legal representatives and visitors
- 7- Mercer County has committed to **timely delivery of inmates** from HCCC for trial dates or direct legal consulting on a daily basis and even hourly if needed to satisfy court requirements



Mercer County Correction Center

8- The HCCC offers **superior drug treatment** and health treatment for inmates, including access to dialysis equipment before year end 2019, which is not available at the MCCC. The HCCC health care facilities include:

- Two new medical wards for the inmate population; 64 Male and 15 Female - versus a total bed count at MCCC of 9 beds
- New Medical Area includes a Detox wing, Negative Pressurized rooms for tuberculosis treatment, and Acute Suicide Cells (none of which are available at MCCC)
- Dialysis suite (end of 2019 completion)
- Drug and Alcohol Rehab Unit has 120 beds; 80 male and 40 Female – no separate facility at MCCC



Mercer County Correction Center

Background

The County of Mercer (“Mercer”) has been reviewing its costs at the MCCC for the last three budget years and has been tracking a decline in costs related to the lower inmate population at MCCC. At the same time Mercer has been assessing the value of closing a significant portion of the MCCC and entering into an agreement with another county to house most Mercer inmates. NW Financial Group, LLC was retained by Mercer to assist in these deliberations and to verify cost assumptions so that Mercer can make an informed decision on the options for the future of the MCCC.

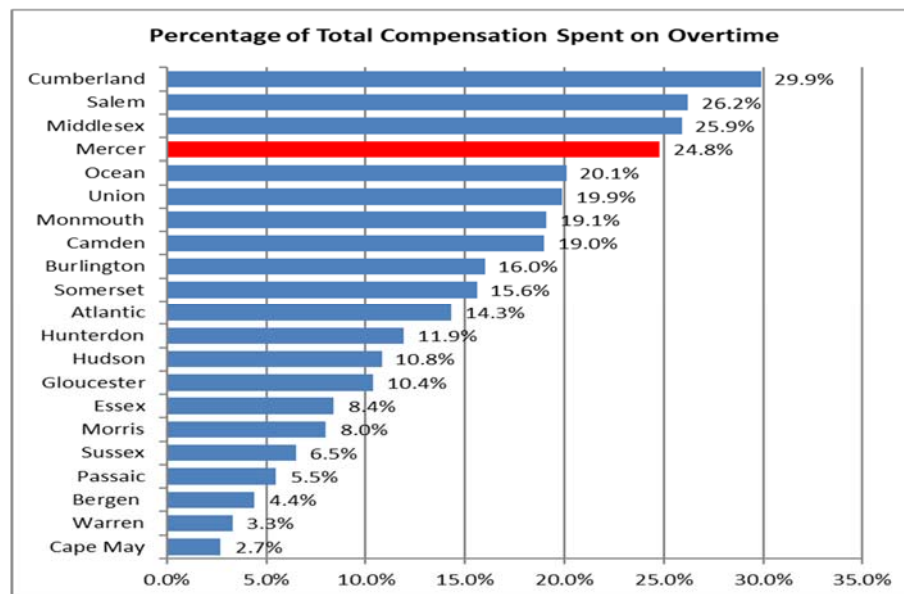
The Facility

The MCCC is an aging 871 bed facility located in Hopewell, New Jersey. It was originally built over 100 years ago in 1892 and has not had any major improvements in over 20 years. The physical design of the facility would not meet current design standards for correctional facilities, and this results in significant overstaffing to compensate for lack of modern inmate control architecture. These design deficiencies are a major contributor to higher than normal staffing and the need for overtime in order to staff posts that are integral to security.

Previous Reports

Mercer County has been investigating ways to reduce the budgetary burden of the MCCC facility on taxpayers since at least 2015 when the Office of the State Comptroller released a report on overtime in adult correctional facilities. This report analyzed all 21 counties in New Jersey and found that Mercer County ranked among the top four counties in overtime as a percentage of total compensation, see below:

Chart 1



Mercer County Correction Center

This report led to further investigation by Mercer and resulted in an operational assessment prepared by the National Institute of Corrections (see Appendix A). Although the report cited Mercer and the staff as pursuing a course of continuous improvements it also highlighted many of the physical and operational challenges of the existing facility that drive up operating costs.

Given the high costs of constructing a new jail – over \$400 million – Mercer then in early 2016 investigated the potential to enter into an agreement that would spread the costs between Mercer County and one or more other counties. A separate initiative investigated the possibility of a regional jail shared by several counties. This option did not come to fruition as other counties chose alternative strategies to fit their needs.

Mercer has also had ongoing discussions with Hudson County (“Hudson”) for the excess capacity in Hudson’s relatively modern facility as a potential home for Mercer inmates. Mercer’s Warden developed a Mercer side staffing plan as a cost basis for a potential agreement to transport inmates for housing to the HCCC in Kearny, NJ. The results of this analysis to transport and outsource showed potential for significant budgetary savings to Mercer.

Mercer decided to pursue the Hudson agreement as it was less complex than a multicounty deal and offered millions of dollars in immediate savings rather than waiting for the construction of a new shared correctional facility in South Jersey.

This report is focused on a detailed analysis of the cost and savings to Mercer if it chooses to proceed with the Hudson agreement. We have also analyzed the opportunities of teaming with either Monmouth or Middlesex Counties, although neither of those counties has offered a firm agreement to Mercer as has Hudson.

Recent Utilization and Costs

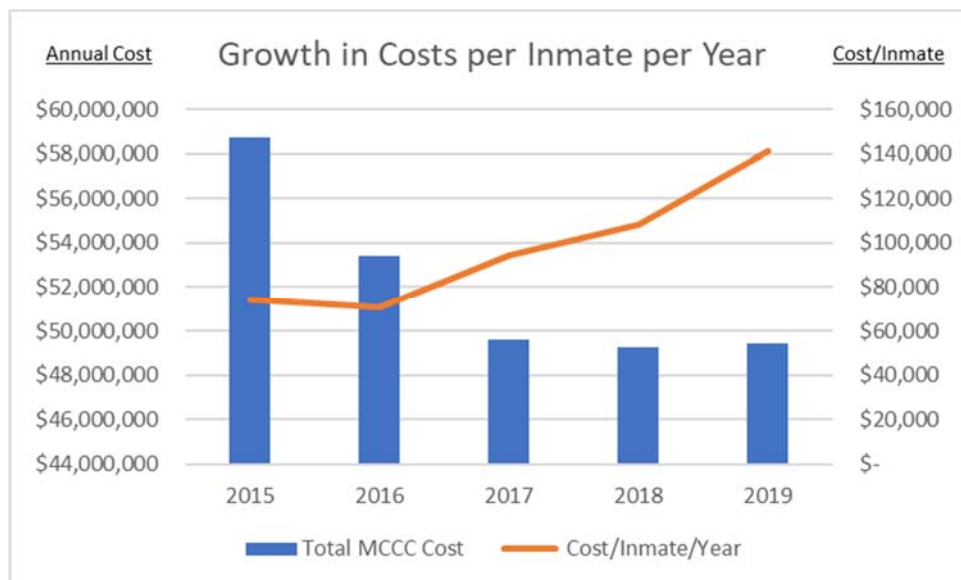
The MCCC, located in Hopewell, New Jersey needs major redesign and/or reconstruction to properly serve its constituency. In years past, overcrowding, lack of maintenance, structural issues, and rising overtime expenses have plagued the 125+ year old facility. With exception of overcrowding, the same issues continue to be a financial burden on Mercer.

The MCCC’s costs have remained at an inflated level above \$48 million a year from 2013 through 2018. A look at the 2015 to 2018 operating results shows that recent bail reform reduced the approximate average daily population from 792 inmates in 2015 to 755 in 2016, 526 in 2017 and then to 456 in 2018 and 350 for the first six months of 2019. Despite this reduction in population the salaries and wages, as well as other expenses for the facility have seen only modest change. MCCC’s operations are more expensive than most other county jails in the State of New Jersey on a per inmate basis.



Mercer County Correction Center

Chart 2



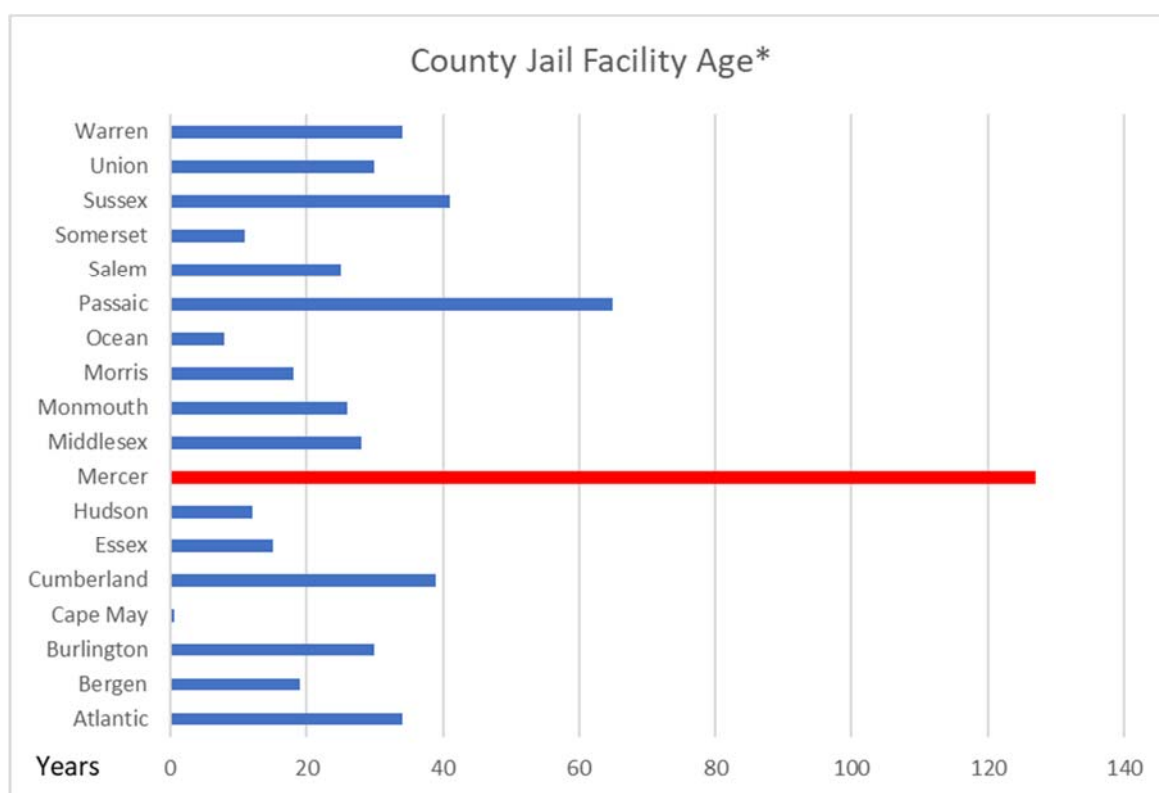
Mercer County Correction Center

1.0 Introduction

The MCCC is a jail facility that confines both adult men and women and has bed space for 870 inmates with minimum, medium and maximum-security classifications. Built in 1892, the Correction Center had served as a work camp for sentenced inmates until an expansion in 1995. In 1998, the County detention center closed in downtown Trenton, and as a result, inmates that were housed in the detention center were relocated to the MCCC.

The MCCC is, as of 2018, by far the oldest county facility in the State as shown below:

Chart 3



*Several counties have already consolidated or closed facilities including Gloucester, Sussex, Hunterdon and Burlington

The current Average Daily Population (“ADP”) for the facility for 2019 is estimated to be approximately 350 inmates. The MCCC inmate population has dropped from a level as high as 792 inmates in 2015 partly as a result of Criminal Justice Reform in the State of New Jersey.

The MCCC population is comprised of those who have been convicted and sentenced by the Municipal or Superior Courts, as well as those who are pre-trial. State sentenced inmates are



Mercer County Correction Center

housed while awaiting transfer to State Prison; inmates with sentences of 364 days or less serve their time at the MCCC.

Inmates are provided with medical, social services and mental health services, as well as educational opportunities during their incarceration. Selected inmates may be ordered by the court or assigned by MCCC, as a form of restitution, to participate in community service projects such as the Superintendent's Labor Assistance Program (SLAP). Inmates classified as minimum security may work on supervised details mowing grass, trash collection and painting at county operated facilities, including the MCCC building and grounds.

MCCC is a department within Mercer and administratively reports to the Mercer County Executive. Mercer has had a correctional facility budget prior to bail reform in 2017 of \$48 million to \$57 million, below is the budget history:

Chart 4

	2015 Paid/Charged	2016 Paid/Charged	2017 Paid/Charged	2018 Paid/Charged	2019 Projected
Base Salaries & Wages	\$ 21,875,316	\$ 20,456,832	\$ 18,587,094	\$ 18,162,644	\$ 20,857,940
Overtime	\$ 11,777,519	\$ 9,649,310	\$ 9,532,629	\$ 10,295,336	\$ 7,779,334
Fringe Benefits	\$ 15,321,022	\$ 14,225,207	\$ 12,982,429	\$ 12,759,495	\$ 13,148,729
Other Expenses	\$ 2,673,577	\$ 2,331,470	\$ 2,112,414	\$ 1,687,482	\$ 1,423,954
Capital Expenses (Average)	\$ 3,657,000	\$ 3,657,000	\$ 3,657,000	\$ 3,657,000	\$ 3,657,000
Medical Expenses	\$ 3,431,555	\$ 3,092,605	\$ 2,734,699	\$ 2,706,068	\$ 2,577,952
Total Expenses	\$ 58,735,989	\$ 53,412,424	\$ 49,606,265	\$ 49,268,025	\$ 49,444,908
 Savings over 2015 Base Year	 \$ -	 \$ 5,323,565	 \$ 9,129,724	 \$ 9,467,964	 \$ 9,291,082
 Average Daily Inmate Population	 792	 755	 526	 456	 350
 Cost per Inmate per year	 \$ 74,130	 \$ 70,702	 \$ 94,279	 \$ 108,034	 \$ 141,271

** 2018 Salaries & Wages is reduced by retroactive pay of \$2,300,000 to reflect ongoing expense burden*

Given the size of the budget and the rising cost per inmate trend Mercer has been considering options in order to save Mercer taxpayers dollars. Most significant is the option to enter into a contract with another County to house a majority of the MCCC inmates. This would allow the closing of approximately 70% to 80% of the current MCCC facility and result in a significant drop in the costs associated with the remaining needs of the MCCC.

The following report provides an analysis of the cost to operate the MCCC in 2018 as a baseline, based on budget and audited financials from the County.

In addition, the cost of the proposed contract with Hudson to house Mercer inmates is analyzed as well. The comparison of the costs for the operation of MCCC versus the costs of providing the same service through a contract with Hudson clearly demonstrates the significant savings that would result from the arrangement.



Mercer County Correction Center

2.0 MCCC Summary

Financial information and general information for the MCCC are based upon information provided by the County including: audited financial statements and budgets for calendar years 2015-2019. The financial results herein are intended to provide a picture of the actual cost of the MCCC's operations and provide a basis for analyzing the potential agreement with Hudson to house Mercer inmates at the HCCC.

Chart 5

Total 2018 Costs

	2018
Base Salaries & Wages	\$ 18,162,644
Overtime	\$ 10,295,336
Fringe Benefits	\$ 12,759,495
Other Expenses	\$ 1,687,482
Capital Expenses	\$ 3,657,000
Medical Expenses	\$ 2,706,068
Total Expenses	\$ 49,268,025

In the latest fiscal year 2018, the MCCC cost Mercer \$49,268,025. Salaries and benefits, including overtime, comprise 84% or \$41,217,475 of the MCCC's total costs.

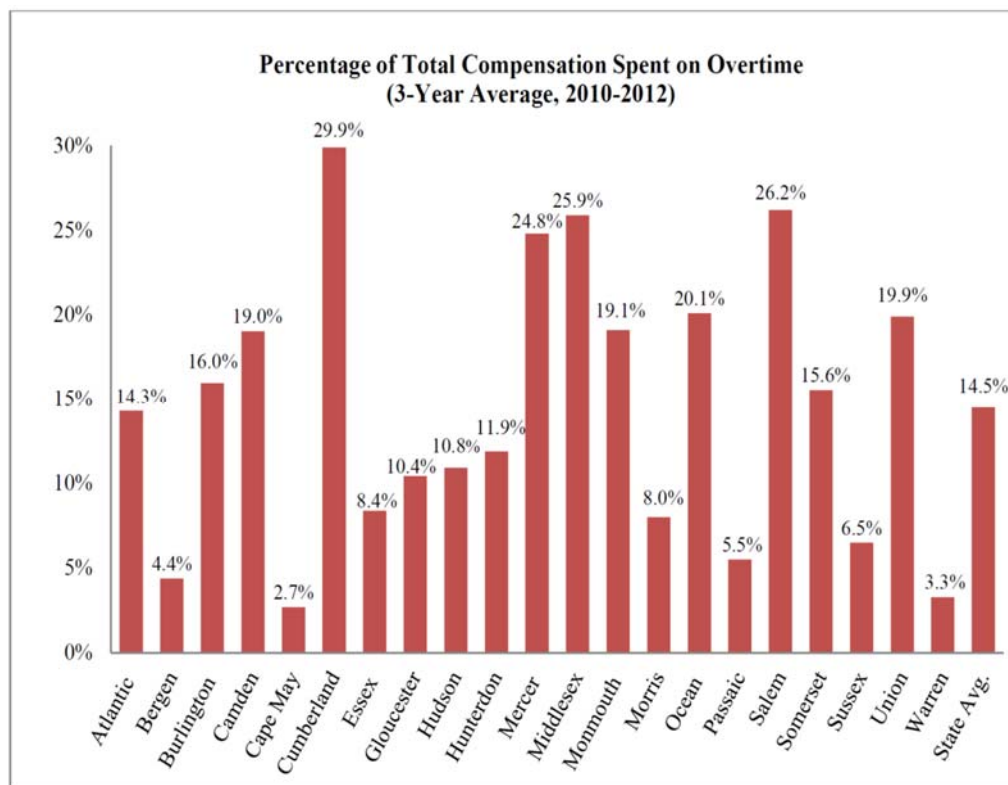
2.1 Salaries and Wages

Chart 5 above illustrates a breakdown of the total costs of the MCCC in 2018. Salaries and wages were the largest single source of costs. Overtime pay made up 36% of total salaries & wages in 2018. The unusually high amount of overtime pay is the result of several issues such as the aging facility's design of its housing units as well as structural issues and other staffing problems. These issues have led the MCCC to have one of the highest ratios of overtime pay to total wages paid in the state.



Mercer County Correction Center

Chart 6



Source: “An Analysis of Overtime at Adult County Correctional Facilities across New Jersey”, Office of the State Comptroller, February 5, 2015

Because of the physical structure of the facility, line-of-sight issues arise, in which views of the inmates are blocked. As a result, a higher number of officers are required to ensure a safe environment for both inmates and staff. In newer facilities, the physical layouts allow for the management of as many as 64 or more general population inmates by one officer. By way of comparison, the MCCC’s current situation includes cases where as many as 3.5 officers are required to supervise 70 general population inmates. This ratio of 1 officer to every 20 inmates is less than a third of 1:64 officers per inmate that more modern and efficient facilities manage.

Additionally, the union contract with the corrections officers specifically mandates how many officers must be posted to each specific station. This increases staffing requirements without regard to inmate population.



Mercer County Correction Center

Chart 7

Breakdown of Salaries, Wages & Benefits

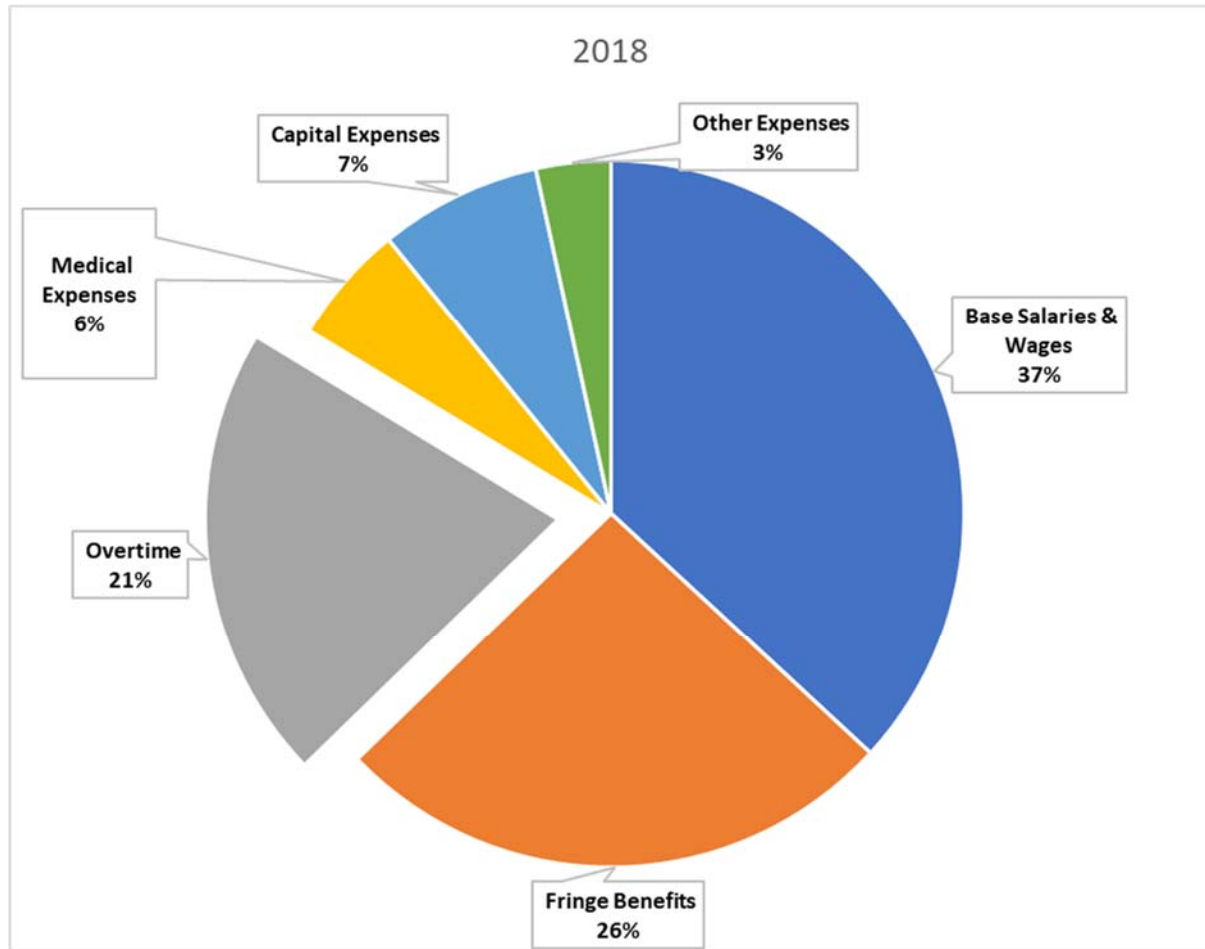
2018 Budget	Uniformed Officers	Non Uniformed Employees	Total Staffing Cost
Salaries & Wages	\$ 25,559,014	\$ 2,898,966	\$ 28,457,980
Staff Count	\$ 219	\$ 46	\$ 265
Average Base Cost/Employee	\$ 116,708	\$ 63,021	\$ 107,389
Fringe Benefit Rate	68%	56%	66%
Average Total Cost per Employee	\$ 79,361	\$ 35,292	\$ 70,787
Total Staffing Cost per Employee	\$ 196,069	\$ 98,313	\$ 178,176

To properly calculate the Mercer's cost of providing benefits to the staff of the MCCC, we have multiplied the salaries and wages by the fringe benefit rate. According to Pino Consulting Group, the firm which produces the County's fringe rate reports, the fringe benefit rate for the Police and Fire Retirement System Employees was 68%. The Public Employees Retirement System fringe rate was 56%.

After applying the proper multiples to the salaries & wages numbers, we can use the "Average Aggregate Approach" to calculate the total cost per employee to the county. This method adheres to the federal guidelines for calculating the fringe benefit costs to a Municipality. The calculation takes the total payroll for the correctional uniform staff and divides it by the number of staff included in the calculation to reach the average gross salary for uniform staff. The average gross salary is then multiplied by the fringe rate to calculate the total amount each staff member costs the taxpayer on average. The exact same calculation for the non-uniform "civilian" staff is used to determine the total amount that each non-uniformed civilian staff member costs the taxpayers.



Chart 8

Mercer County Correction Center 2018 Cost Breakdown

Source: *Mercer County 2018 Adopted Budget (less retro pay)*

2.2 Condition of the Facility

The physical condition of the MCCC is also of rising concern. The MCCC is estimated to need millions of dollars worth of repairs and upgrades to improve the physical plant, if it is to be used long term for the full inmate population. These improvements are needed despite recent investments in the facility by the County totaling approximately \$9 million over the past 4 years.

The facility, built in 1892, operates 24 hours a day - seven days a week - 365 days a year. Because the facility is in operation 24/7, one year of operation is equivalent to 4.2 years of operation of a typical school or office building. These factors make regular maintenance and repair difficult. As a result, the facility is challenged in the ability to meet the basic needs of the inmate population.



Mercer County Correction Center

One example of this is the lack of enough water supply to accommodate an in-house laundry.

Repairs that have been made in recent years include:

- Broken plumbing in many living units
- Rust and mold present in many living units
- Insufficient number of operable showers, toilets, and washbasins for the number of inmates housed in most living units at capacity (per New Jersey Standards and ACA Standards)
- Damage to walls with cracks and or missing blocks

These conditions are a significant cost to taxpayers for annual maintenance and repair. The capacity of housing units, line of sight issues from officer stations to the inmate population, as well as the outmoded design of the facility from many years ago, makes the facility much more labor intensive than newer designed facilities.

In order to fund all the repairs estimated by the facility's planners, the County would have to borrow millions of dollars to fund these needs. *These borrowings would be County of Mercer General Obligation Bonds to be paid directly by the taxpayers with no offsetting revenues.*



3.0 Structure of the Proposed Mercer/Hudson Contract

The proposed two-year agreement between Mercer and Hudson regarding Mercer inmates being housed in HCCC, provides a cost-effective solution to the MCCC's issues. The analysis provided herein will address the various details of the proposed two-year agreement and provide an accurate estimate to the cost saving benefits that Mercer can expect.

3.1 Agreement Structure

The core elements of the 2019 draft agreement are listed below:

- Hudson shall provide all onsite services including housing, food, and security, as well as in-facility medical, dental, mental health and formulary medication services. Mercer agrees to pay Hudson \$102 per inmate per day.
- The proposed agreement provides - Mercer shall transport up to 300 inmates with a ramp up period of approximately four (4) consecutive weeks. Sixty days after the execution of the Agreement, Mercer shall pay for a minimum of 300 inmates per day, or any part of a day for the duration of the Agreement.
- Mercer agrees that it will be billed at the minimum number of inmates to be housed by Hudson pursuant to the terms of this Agreement, which is 300, and Mercer shall pay Hudson at the minimum number even if the number of inmates housed daily is less than 300. For any Mercer inmates in excess of the minimum, Mercer shall be billed and shall pay at the \$102 per-day rate, or any part of the day rate, for each additional inmate.

Under the two-year agreement, Mercer will continue the operation of MCCC at a much-reduced level. It will operate only those sections of the existing facility that will be necessary solely for the booking and processing of inmates, as well as housing inmates who have court appearances.

3.2 Salaries and Wages

The largest source of savings for Mercer will be in the reduction of salaries and wages. It is currently anticipated that the MCCC plans on retaining a initial reduced staff of 19 civilians, 9 Lieutenants, 15 Sergeants, and 98 officers. Based upon detailed analysis by the Warden the staffing plan for undertaking the Hudson Agreement would be as follows:



Mercer County Correction Center

Chart 9

Mercer Personnel Budget with Hudson Agreement

Position	Salary	Posts				Relief Factor	Rounded to whole FTE	Personnel Cost
		A	B	C	Total			
Lieutenant	\$120,000	2	2	2	6	1.50	9	\$ 1,080,000
Transportation Sergeant	\$105,000	1	1	1	3	1.50	5	\$ 525,000
Sergeant	\$105,000	1	2	2	5	1.80	10	\$ 1,050,000
Officer	\$93,200	13	14	14	41	1.80	77	\$ 7,176,400
Transportation Officer	\$93,200	4	6	4	14	1.50	21	\$ 1,957,200
Total Uniformed					69		122	\$ 11,788,600
Administrative and Civilian	\$72,319						19	\$ 1,374,061
All In Personnel							141	\$ 13,162,661

Chart 10

Savings – Salaries, Wages, and Benefits

Salaries, Wages & Benefits	2018	\$ 41,217,475
Salaries, Wages & Benefits	Reduced Staff	\$ 20,353,997
Total Savings Anticipated		\$ 20,863,479

3.3 Changes in Medical and Other Expenses

Under the agreement, HCCC shall provide housing, food, and basic medical services for the Mercer inmates housed in the facility. As a result, MCCC's costs associated with food and medical services is expected be heavily reduced. A full breakdown of the estimated savings for other expenses is illustrated in Chart 11.



Mercer County Correction Center

Chart 11

Savings Medical and Other Expenses

	Projected 2019	Proposed	Estimated Savings
Medical	\$ 2,577,952	\$ 1,731,320	\$ 846,632
Meals at Mercer Jail	\$ 939,434	\$ 268,410	\$ 671,024
Ancillary Jail Supplies	\$ 484,520	\$ 138,434	\$ 346,085
Total	\$ 4,001,906	\$ 2,138,164	\$ 1,863,741

3.4 Changes in Capital Expenses

The MCCC has averaged \$3,657,000 in Capital Expenses for the last 5 years (2014-2018), related to the maintenance and repair of the facility.

Under the two-year agreement with Hudson, the MCCC would be operating at a greatly reduced capacity. As a result, certain problem areas of the facility may be taken out of use, resulting in a smaller cost for maintenance and upkeep. Mercer has averaged \$3,657,000 and expects an estimated capital budget of \$1 million per year under the Hudson Agreement, a cost reduction of approximately \$2,657,000.

3.5 Payment Per-Inmate to Hudson County

With the implementation of the agreement, as noted in Section 3.1 of this report, Mercer will begin to pay Hudson a fee of \$102 per-day, per-inmate for the first year of the program.

As a result, the minimum amount that Mercer must pay Hudson for the first year is expected to be \$11,169,000. If Mercer inmate population is 50 inmates higher on average the cost would be an additional \$1,861,599. If the inmate population is 350 then the annual cost is \$13,030,500.



Mercer County Correction Center

3.6 Transportation**Current Transportation Costs**

The County currently transports inmates between the MCCC and the Mercer County Courthouse several times per day to deliver inmates to the courts. The current cost related to inmate transportation exceed \$1,086,000 per year accounted for as follows:

Chart 12**Personnel Cost of Current Transportation**

	Shift Salary	A	B	C	Total	Relief Factor	Rounded to Whole FTE	Personnel Cost
Sergeant	\$ 105,000	0	1	0	1	1.5	2.00	\$ 210,000
Officer	\$ 93,200	0	4	2	6	1.5	9.00	\$ 838,800
					7		11.00	\$ 1,048,800

Chart 13**Non-Personnel Cost of Current Transportation**

	One Way	Total Daily	Total Annually
Miles	12.80	64.00	16,704
Miles per gallon	4	4	4
Fuel Cost per gallon	\$ 3.00	\$ 3.00	\$ 3.00
Gallons Of Fuel	3.20	16.00	4,176
Fuel Cost	\$ 9.60	\$ 48.00	\$ 12,528
Maintenance etc. /mile	\$ 1.50	\$ 1.50	\$ 1.50
Total Maintenance	\$ 19.20	\$ 96.00	\$ 25,056
		\$ 144	\$ 37,584

Transportation to Hudson

Transportation of inmates between the Mercer County and Hudson County facilities will occur at least four times a day. Inmates will be transferred via bus or van between the two facilities. Each one-way trip is a 71-mile route. The average Transit Bus has a miles-per-gallon rate of 3.26. The average price of a gallon of diesel fuel is budgeted at \$3.00 per gallon. In addition to the fuel expenses, the County must also pay toll expenses. According to the New Jersey Turnpike's



Mercer County Correction Center

website, the toll costs for the route that the County must take amounts to \$9.55 for a one-way trip for a class B-2 bus. The total annual toll expenses will be approximately \$54,772.

Chart 14



Transportation Cost Calculations to HCCC

Chart 15

Personnel Transportation Costs to HCCC

Position	Shift Salary	A #	B #	C #	Total	Relief Factor	Rounded to whole FTE	Personnel Cost
Transportation Sergeant	\$105,000	1	1	1	3	1.50	5	\$ 525,000
Transportation Officer	\$93,200	4	6	4	14	1.50	21	\$ 1,957,200
					17		26	\$ 2,482,200



Mercer County Correction Center

Non-Personnel Transportation Costs to HCCC**Chart 16****Bus Transport (Assumes 8 one-way trips daily)**

	One Way	Total Daily	Total Annually
Miles	71	568	207,320
Miles per gallon	4	4	4
Fuel Cost per gallon	\$ 3.00	\$ 3.00	\$ 3.00
Gallons Of Fuel	17.75	142	51,830
Fuel Cost	\$ 53.25	\$ 426.00	\$ 155,490.00
Maintenance etc. /mile	\$ 1.50	\$ 1.50	\$ 1.50
Total Maintenance	\$ 106.50	\$ 852.00	\$ 310,980.00
Tolls	\$ 9.55	\$ 76.40	\$ 27,886.00
Total		\$ 1,354.40	\$ 494,356.00

Chart 17**Chase Vehicle (Assumes 8 one-way trips daily)**

	One Way	Total Daily	Total Annually
Miles	71	568	207,320
Miles per gallon	8	8	8
Fuel Cost per gallon	\$ 3.00	\$ 3.00	\$ 3.00
Gallons Of Fuel	8.88	71.00	25,915.00
Fuel Cost	\$ 26.63	\$ 213.00	\$ 77,745.00
Maintenance etc. /mile	\$ 0.25	\$ 0.25	\$ 0.25
Total Maintenance	\$ 17.75	\$ 142.00	\$ 51,830.00
Tolls	\$ 9.55	\$ 76.40	\$ 27,886.00
Total		\$ 431.40	\$ 157,461.00

The annual toll, fuel and vehicle maintenance expenses for the transportation of inmates total \$651,817 for year one.

We believe these cost projections are conservative and assume a full 42 passenger bus on each trip, in reality, the Corrections Department has 4 new 12 passenger vans that can reduce cost when transport of fewer inmates is required.

Thus, the total cost of transportation to Hudson is \$3,134,017 and the incremental cost over current transportation costs is \$2,047,633.



Mercer County Correction Center

4.0 Result of Analysis

NW Financial has reviewed the proposed agreement between Mercer and Hudson Counties and is of the opinion that entering into this contract is in the best economic interests of the County and its taxpayers. The savings/economic benefit from the execution of the two-year agreement would be approximately \$11.4 million or approximately 3% of the County's total annual budget, 2018 baseline. The two-year agreement is anticipated to reduce the County's tax burden by over \$22 million based on the operational savings alone. It does not consider salary and wage increases on a larger staff in the out years, or the projected capital cost savings from not having to invest millions of dollars in capital improvements to the buildings infrastructure in order to continue to operate the facility.

Chart 18

Approximate costs - First full 12 months of fully executed agreement (after 4 week ramp up period) – 350 Inmates at Hudson

Projected	Projected MCCC 2019	Hudson Agreement	Savings/(Costs)
Total Salaries & Wages (non transport)	\$ 27,588,474	\$ 10,895,964	\$ 16,692,510
Inmate Meals and Other Expenses (non transport)	\$ 1,386,370	\$ 406,844	\$ 979,526
Hudson County Charge		\$ 13,030,500	\$ (13,030,500)
Transportation	\$ 1,086,384	\$ 3,134,017	\$ (2,047,633)
Benefits	\$ 13,148,729	\$ 7,191,336	\$ 5,957,393
Capital Expenses	\$ 3,657,000	\$ 1,000,000	\$ 2,657,000
Medical Expenses *	\$ 2,577,952	\$ 1,731,320	\$ 846,632
Grand Total	\$ 49,444,908	\$ 37,389,981	\$ 12,054,927
Assumed Inmates	350	350	
Cost per Inmate per day	\$ 387	\$ 293	\$ 94
Cost per Inmate per year	\$ 141,271	\$ 106,829	\$ 34,443

* Medical expenses include CFG, nursing and prescriptions at Mercer

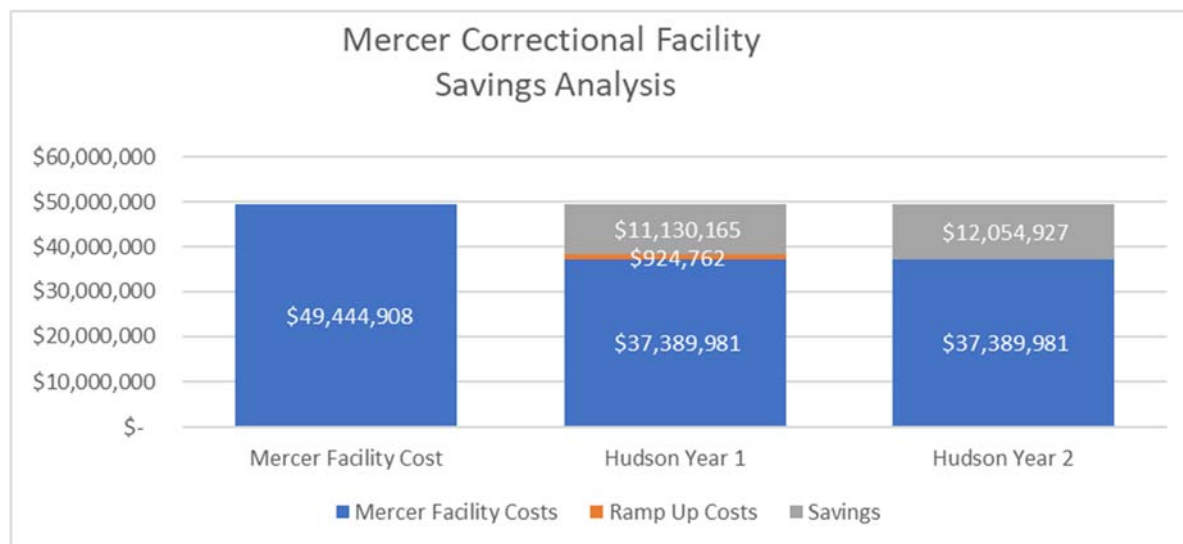
Ramp- Up Period

During the first 4 weeks of contract implementation it is expected that there would be no savings and thus the following chart illustrates first and second year savings including the full added cost of the ramp up period:



Mercer County Correction Center

Chart 19



Mercer County Correction Center

4.1 The Staffing Plan

In March of 2016, the Patrolman's Benevolent Association 167 and the Superior Officers Association 167a representing the officers and superiors employed by the County of Mercer drafted a report regarding the staffing of the Correction Center at a reduced capacity. The report, prepared by two former wardens, suggested that the number of officers required to safely staff the Correction Center should be as follows: 8 Lieutenants, 12 Sergeants, and 87 Officers.

This report has been taken into consideration in this analysis and the estimated staffing and is reflected in the initial planned staffing shown in Section 3.2 of this report with recommending 9 Lieutenants, 15 Sergeants, and 98 Officers, along with 19 civilians.

4.2 Effects of bail reform and Mercer Speedy Trial Program

Criminal Justice/Bail Reform

Starting January 1, 2017, the State of New Jersey implemented a new risk-based system of pre-trial release that bases decisions on the release of a defendant on the using of a scientific risk assessment of the likelihood an arrestee will recommit a crime, whether he/she will show up for trial and what threat he/she poses to the community as opposed to how much money the arrestee should pay as bail to get out of jail, without taking those other factors into consideration. The effect of this reform has led to a reduction in the number of defendants being housed in New Jersey County jails because of their inability to pay monetary bail. Contrary to intuition however, this has not necessarily resulted in dramatic decreases in the costs of operating county jails.

The most significant percentage of costs associated with jails is related to salaries, wages, and benefits, as delineated earlier. Unless a jail can significantly reduce its staff, it will not see a significant reduction in costs. While bail reform may lead to a decrease in the population of a jail, it may not necessarily lead to a decrease in the staff. This is due, in part, to very specific methods in establishing and meeting the staffing requirement for MCCC in particular, and all correctional facilities in general.

Staffing requirements in jails are done via "Post Trick Analysis". This analysis considers various factors such as the type of post, the number of officers required for a post at any given time, and the amount of shifts it takes to cover a post.

Even if the population of a jail decreases, the number of posts necessary may not change in a significant way, which results in little to no cuts in the cost of the facility. When the inefficiencies of the MCCC are considered, even with bail reform, the number of officers needed to safely staff the jail may not change.

Unless the Correction Center can close housing units, as a result of any reduction in Average Daily Population (ADP) due to bail reform, it will not be able to reduce posts in the facility. In a housing



Mercer County Correction Center

unit, which must be staffed on a 24x7x365 basis, it takes 5.8 officers to fill one post. That is the “Post Trick Analysis” and considers the amount of days that one officer will likely be on duty and how many officers are required to fill that one position. The calculation calls for one officer per shift per post in a housing unit. The relief factor is 1.8, which provides for coverage for sick, vacation, personal days off as well as time for on the job injuries and other categories for time off with pay.

The additional complicating factor in reducing the number of housing units in the MCCC is the classification process. The classification system in a jail is extremely significant for the operation of the facility. It is the system that is at the heart of maintaining a safe and secure environment in a correctional setting.

Classification requires the evaluation of every individual who is arrested and remanded to the MCCC. It is an objective process that considers the individuals’ charges, their behavior, the likelihood of them committing other crimes, and anticipating how they will act in the correctional setting. This is the system that determines, who is placed in a maximum, medium or minimum housing unit in the jail.

In order to effectively operate the MCCC in a safe and secure fashion, there must be enough options to place inmates, so that the classification system can be effective. Without that, gang members and known street enemies could be locked up together and could put the safety of the inmate and officer population at risk.

As a result, it may be very difficult to close housing units, just based on the needs of classification. If there is an inmate in a housing unit, there will need to be staff there all three shifts, in virtually all cases.

Therefore, while the ADP may drop as a result of bail reform, the classification system drives where inmates are to be housed and in what security level. That in turn determines how many housing units will be occupied, and that then drives the number of officers required to staff the posts in the occupied housing units.

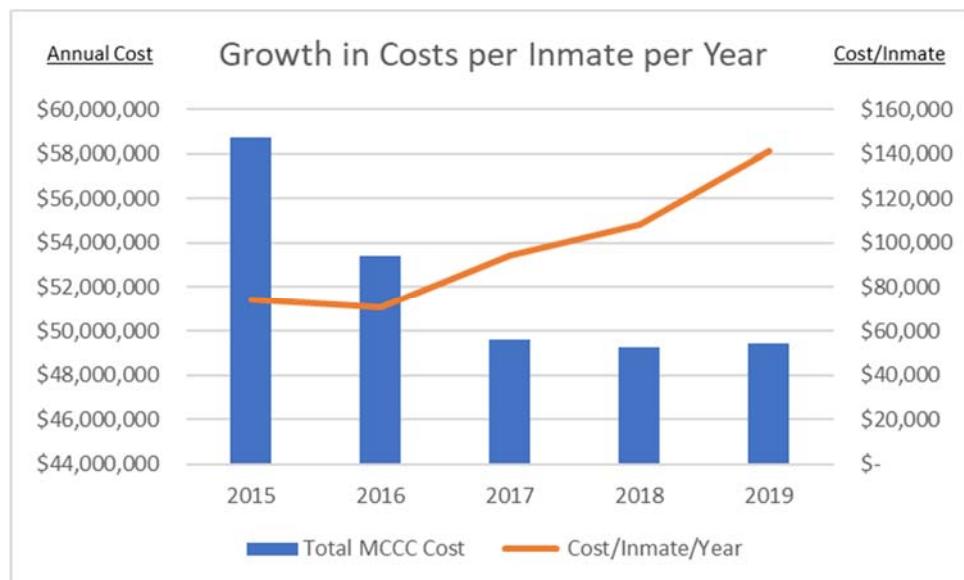
While there are posts that are not required to be filled on a 24x7x365 basis, they either have a 1.5 relief factor, or no relief factor for those positions that do not have to be filled on a daily basis (found primarily in the support services).

Because of these reasons, bail reform has had a meaningful reduction in costs of the Correction Center as population has dropped from the 2015 high of 792 to the 2019 low of approximately 350. However, cost per inmate has actually increased as shown below:



Mercer County Correction Center

Chart 20

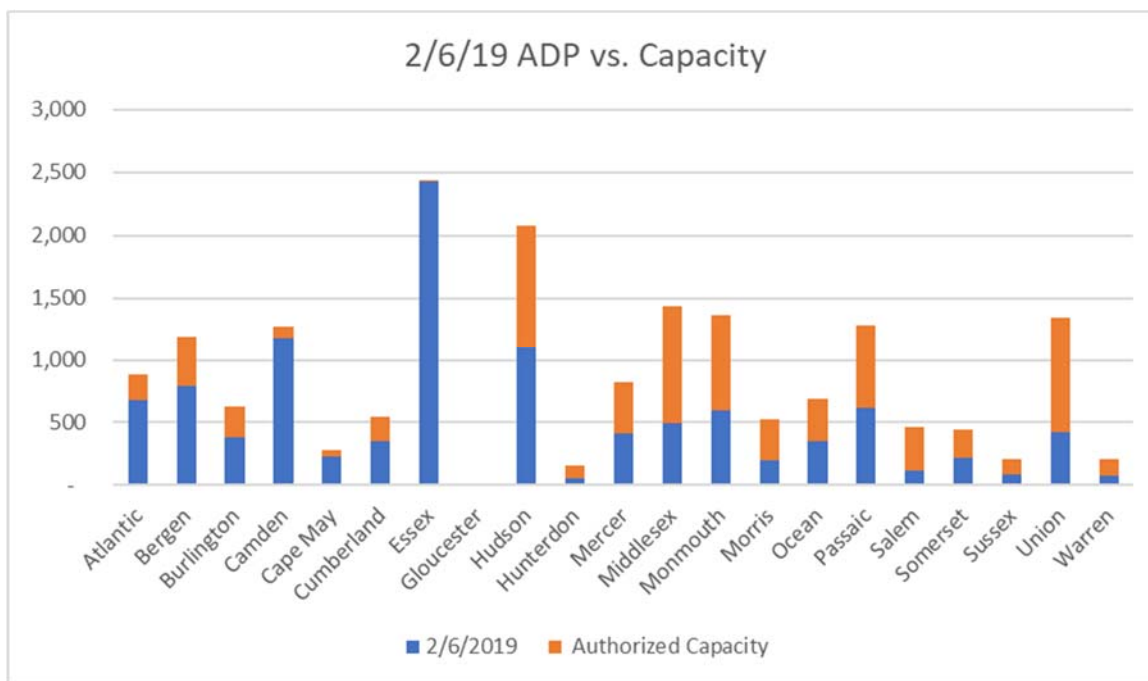


Mercer County Correction Center

5.0 Alternatives to the proposed Hudson County Contractual Relationship

As the final part of this study, a determination of whether there were any other facilities that could accommodate the Mercer desire to contract for housing the bulk of their inmate population. The following chart shows occupancy and capacity for each county jail facility as of February 19, 2019. As can be seen, not every county has capacity to accept Mercer inmates in a meaningful way.

Chart 21



Source: New Jersey County Correctional Facilities occupancy reports filed with the State of New Jersey Department of Corrections

The two obvious alternative counties were Middlesex County and Monmouth County, both of which are less than half the distance from MCCC than the distance from Mercer to the HCCC. The focus of the discussion with each county was to determine their capacity for holding Mercer inmates, and a rough estimate of costs on a per inmate per day basis.

5.1 Middlesex County

Middlesex County has vacant space in their facility. Prior to the implementation of bail reform on January 1, 2017, the jail had two (2) dormitories that were available that could be considered for housing Mercer County inmates. The capacity of these two units combined for a total of 250 beds. These would be available for inmates who are classified as medium security.



Mercer County Correction Center

The County had indicated that there were a couple of conversations with Warden Ellis in early 2016 regarding the interest of Middlesex County in entering a contractual relationship. They are interested; however, there would have to be serious discussions between the two counties to flesh out the arrangements.

Pricing for the contracted beds, would be determined by who is shipped to Middlesex and what services the Middlesex Jail would be expected to provide. In virtually each arrangement where a jail has contracted with another jail, various services are provided within the per diem as well as housing, such as generic medications, with the sending county picking up other more expensive costs, such as name brand prescription medications as one example.

In addition, there was a discussion as to whether Middlesex would be interested in assuming the function of a Reception and Discharge Unit. However, at the time of the discussion, the County was interested in determining the impact of the criminal justice reform measures. The concern is that trying to handle all intakes and discharges for Mercer as well as their own in Middlesex could become too complicated and cumbersome.

In addition to the issues related to the intake and discharge processes as impacted by the criminal justice reform efforts, the County had another concern. The County solicited proposals for a Medical Provider for the inmate population. They selected a new provider and were concerned, to a degree, over the transition from a well-established provider who had provided the medical services for many years.

Given the anticipated high-volume intakes and discharges based on the timeline contained in the guidance provided by the Administrative Office of the Courts, the County wanted to determine the impact before they proceeded with any additional discussions.

The initial range of pricing discussed was in the range of \$85-\$90 per day for inmates, but not with the same services as offered by Hudson, that were transported to the Middlesex County Jail. The range for those inmates that Middlesex would have to transport, would be in the \$105 per day range for the range of services included in the pricing to be similar or equal to those contained in the Hudson County proposed contract.

Over the last year, there have been further inquiries as to the interest of Middlesex County to house the Mercer County inmate population, either with or without handling the Intake and Discharge responsibility. Middlesex has yet to provide a written proposal for such an arrangement and it is accepted that, at this point in time Middlesex County is not interested in such an arrangement.

5.2 Monmouth County

Monmouth County has vacant space in their facility. They have also been impacted by the Criminal Justice Reform, as have Middlesex, Mercer and other counties. In that regard, they currently have virtually enough vacant beds to meet the need that Mercer initially discussed with Hudson.



Mercer County Correction Center

In a recent conversation with County officials, it was acknowledged that they currently have a contractual relationship with the U. S. Marshall Service. This contractual relationship has been in existence for several years. They have recently negotiated a significant increase in their per diem charges with the Marshalls Service.

In addition, they were negotiating a contract with the State of New Jersey for the holding of State Inmates. They have been discussing and working on a contract amendment to increase the contractual blended rate which is currently in existence.

As a result of the negotiated rate with these two entities, the per diem rate will be significantly higher, in order to ensure that they maintain the legitimacy of their increased rates. These rates could range from 5% to 20% higher than the negotiated rate with Hudson.

Monmouth has expressed an interest in diversifying and adding services to what is currently offered in the Monmouth County Jail. They have pursued the opportunity to provide a drug treatment unit which will occupy a former housing unit. Additionally, they have pursued providing a dialysis treatment program and offered that to other counties on a per diem basis.

Monmouth also stated that they would look to have any sending county, such as Mercer, contribute to the capital needs of the facility, which are significant. In more recent conversations Monmouth has indicated that they are not currently interested in housing additional inmates.

5.3 Summary

As a result of the factors discussed in this report, NW Financial believes that the Mercer's best course of action to reduce the mounting costs per inmate of the MCCC is to enter into the proposed agreement with Hudson County. We believe that this option will provide Mercer with approximately \$22.7 million of savings over a period of 2 years.

The HCCC appears to be the only viable option for the County of Mercer. Hudson certainly meets the taxpayer cost concerns of the Mercer public officials. It has substantially more programmatic opportunities than the MCCC; the medical program is significantly more robust than that offered in MCCC, and the opportunities for inmates to realize the benefits of the on-site drug and alcohol rehabilitation programs and housing units, are all positives when it comes to considering the welfare of the inmate population. **Additionally, HCCC has committed to hire all non-superior uniformed correction officers who will not be retained by MCCC. It is expected that superior officers will remain at the MCCC.**

Not calculated here are projected increased costs that could result from recent legislative changes, specifically the expiration of the requirements of Chapter 78; expiration of the 2% limit on arbitration awards over 2 percent of total compensation to uniformed services; and the movement of certain staff from the PERS pension to the PFRS.



Appendix A

Operational Assessment



Exhibit B



JERLENE H. WORTHY, CLERK
BOARD OF CHOSEN FREEHOLDERS

COUNTY OF MERCER
McDADE ADMINISTRATION BUILDING
640 SOUTH BROAD STREET
P.O. BOX 8068
TRENTON, NEW JERSEY 08650-0068
(609) 989-6584
Fax: (609) 392-0488

LISA M. VENA
DEPUTY CLERK

MERCER COUNTY BOARD OF CHOSEN FREEHOLDERS

FORMAL MEETING OF FEBRUARY 11, 2016

MINUTES

Chair Cannon called the Agenda Meeting to order at 6:04 P.M. on February 11, 2016, in Room 211 of the Joyce L. McDade Administration Building, 640 South Broad Street, Trenton, New Jersey.

The following members of the Board answered the Roll Call of the Clerk to the Board:

Present - Freeholders Carabelli, Cimino, Colavita, Koontz, Walter, and Cannon
Absent – Freeholder Frisby

The Clerk to the Board read the Invocation.

Chair Cannon called the Pledge of Allegiance and Salute to the Flag.

The Clerk to the Board announced that in accordance with the provisions of the New Jersey Open Public Meetings Law, notice of this Formal Meeting had been mailed to The Trenton Times, The Trentonian and The Princeton Packet newspapers as well as having been posted in both the County Administration Building and Courthouse at least forty-eight (48) hours in advance of the meeting.

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2016 MERCER COUNTY BUDGET ADDRESS

County Executive Brian M. Hughes presented the Freeholder Board with the 2016 budget message. County Executive Hughes stated that since he has been County Executive the budget proposals have been marked by austerity and balance, and this year again represents the Administration's efforts to provide the best possible government to taxpayers in Mercer County.

County Executive Hughes also announced a pending agreement to send inmates housed at the Mercer County Correction Center to Hudson County. He spoke about the aging jail complex in Hopewell Township and Hudson County's impressive and progressive range of programs and medical services offered to inmates. **(See Schedule A, attached hereto, and made a part hereof)**

The Freeholders collectively requested further information regarding the possible closure of the Mercer County Correction Center.

County Executive Hughes offered the Board the opportunity to tour the jail facility located in Hudson County.

At this time, Chair Cannon invited the members of the public to comment on any item listed on the Agenda.

The following individuals expressed their concerns regarding the possible closure of the Mercer County Correction Center, the proposed Salary Ordinance and increasing tax-rates.

Vincent Capodanno
Ira Marks
Lisa Richford
Andrew Curcio
Dave Beckett
Charles Peters

Gloria Anderson
Antonio Gambino
Kelly Ottobre
Ray Peterson
Stuart Altermann
Brian Mitchell

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COMMUNICATIONS

Freeholder Walter had a question regarding the following proposed communication received from Andrew A. Mair, County Administrator, dated February 11, 2016, RE: Questions from Freeholder Meeting of February 9, 2016. She referenced the response to R-16 regarding the Award of Bid for Janitorial Services at various County buildings. Freeholder Walter asked if Extension Services was included in the bid.

Mr. Andrew Mair, County Administrator, explained there was a change in service and Extension Services was not included in this particular bid.

A communication was received from Marcella Covello, Purchasing Agent, dated January 22, 2016, RE: Minutes and Bid Results for the Week of December 14, 2015.

A communication was received from Marcella Covello, Purchasing Agent, dated February 2, 2016, RE: Minutes and Bid Results from the Week of January 18, 2016.

A communication was received from Marcella Covello, Purchasing Agent, dated January 22, 2016, RE: Minutes and Bid Results from the Week of December 28, 2015.

A communication was received from Marcella Covello, Purchasing Agent, dated January 22, 2016, RE: Minutes and Bid Results for the Week of January 4, 2016.

A communication was received from Tonya D. Carter, Acting Municipal Clerk, dated January 26, 2016, RE: Resolution No. 27-16, Regarding the PennEast Pipeline, the Crestwood Marc II Pipeline, the Garden State Expansion Project and the Southern Reliability Link Project.

A communication was received from Brian M Hughes, County Executive, dated January 29, 2016, RE: Appointments Requiring Freeholder Advise and Consent.

A communication was received from Andrew A. Mair, County Administrator, dated February 11, 2016, RE: Questions from Freeholder Meeting of February 9, 2016.

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RESOLUTIONS

Chair Cannon called for a Motion to add the following proposed Resolutions to the Agenda.

Freeholder Koontz offered the following Resolutions, seconded by Freeholder Colavita:

RESOLUTION TO EXCEED THE COUNTY BUDGET
APPROPRIATION LIMITS AND TO ESTABLISH A
CAP BANK (N.J.S.A. 40A: 4-45.14)

And,

INTRODUCTION AND APPROVAL OF FIRST READING OF
THE 2016 BUDGET **"ADDED TO THE AGENDA"**

VOTE ON MOTION

Ayes -6. Nays - 0. Abstain - 0. Absent - 1.

Ayes – Freeholders Carabelli, Cimino, Colavita, Koontz, Walter and Cannon

Absent – Freeholder Frisby

The Clerk to the Board called for a Motion to Vote in Block on the following Resolutions listed on the Agenda.

Freeholder Cimino moved, seconded by Freeholder Walter, that:

**RESOLUTIONS NO. R-1 THROUGH R-22, ON THE AGENDA BE VOTED ON
IN BLOCK**

VOTE ON MOTION

Ayes - 6. Nays - 0. Abstain - 0. Absent -1.

Ayes – Freeholders Carabelli, Cimino, Colavita, Koontz, Walter, and Cannon

Absent – Freeholder Frisby

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- NO. 2016-84** AMEND RESOLUTION NO. 2015-274, ADOPTED MAY 28, 2015 AND AUTHORIZE COUNTY EXECUTIVE AND CLERK TO THE BOARD TO EXECUTE AMENDMENT NO. 1 TO THE CONTRACT WITH THE STATE OF NEW JERSEY, DEPARTMENT OF HUMAN SERVICES, DIVISION OF FAMILY DEVELOPMENT, SOCIAL SERVICES TO THE HOMELESS (SSH); AMEND RESOLUTION TO REFLECT THE ADDITION ON INTENSIVE CASE MANAGEMENT (ICM) SERVICE DOLLARS IN THE AMOUNT OF \$61,000.00, RESULTING IN A NEW CONTRACT TOTAL AMOUNT OF \$779,728.00. PERIOD REMAINS JULY 1, 2015 TO JUNE 30, 2016
- NO. 2016-85** COUNTY EXECUTIVE AND CLERK TO THE BOARD ACCEPT A GRANT RENEWAL AWARD FROM THE STATE OF NEW JERSEY, DEPARTMENT OF HUMAN SERVICES, DIVISION OF MENTAL HEALTH AND ADDICTION SERVICES FOR THE 2016 MERCER COUNTY COMPREHENSIVE ALCOHOLISM AND DRUG ABUSE SERVICES FOR MERCER COUNTY RESIDENTS. PERIOD: JANUARY 1, 2016 THROUGH DECEMBER 31, 2016. AMOUNT: \$901,049.00 [\$799,961.00 (STATE FUNDS); \$101,088.00 (COUNTY MATCH FUNDS)]
- NO. 2016-86** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A PROFESSIONAL SERVICE CONTRACT (AWARDED THROUGH A NON-FAIR AND OPEN PROCESS) WITH DELAWARE VALLEY PEDIATRICS ASSOCIATES, P.A. TO PROVIDE ROUTINE MEDICAL SERVICES TO YOUTH RESIDING AT ANCHOR HOUSE AND MERCER HOUSE. PERIOD: JANUARY 1, 2016 TO DECEMBER 31, 2016. AMOUNT: \$25,000.00 (COUNTY FUNDS)

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- NO. 2016-87** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY HISTORICAL COMMISSION FOR THE CULTURAL AND HERITAGE DIVISION TO PROVIDE GENERAL OPERATING SUPPORT TO ORGANIZATIONS IN THE MERCER COUNTY REGION. AMOUNT: \$11,096.00. PERIOD: JULY 1, 2015 TO JUNE 30, 2016
- NO. 2016-88** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A MUTUAL AID AN ASSISTANCE AGREEMENT WITH THE COUNTY OF MERCER OFFICE OF EMERGENCY MANAGEMENT TO PROVIDE SERVICES TO MUNICIPALITIES AND JURISDICTIONS WITHIN MERCER COUNTY IN THE EVENT OF AN EMERGENCY SITUATION OR A FORMAL DECLARATION OF AN EMERGENCY. PERIOD: DECEMBER 31, 2015 THROUGH DECEMBER 31, 2020
- NO. 2016-89** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO SUBMIT THE 2014 EMERGENCY MANAGEMENT ASSISTANCE (EMAA) GRANT APPLICATION AND EXECUTE SUB-GRANT AWARD WITH THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY. FEDERAL AWARD: \$55,000.00; COUNTY IN-KIND MATCH: \$55,000.00; ADDITIONAL FEDERAL AWARD: \$25,000.00; MUNICIPAL IN-KIND MATCH: \$25,000.00. TOTAL AWARD: \$160,000.00. PERIOD: JULY 1, 2014 THROUGH JUNE 30, 2015

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- NO. 2016-90** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A NON-PROFIT ASSISTANCE PROJECT AGREEMENT BETWEEN THE COUNTY OF MERCER AND STONY BROOK-MILLSTONE WATERSHED ASSOCIATION FOR ASSISTANCE IN THE ACQUISITION OF THE HOPEWELL VETERINARY PROPERTY, KNOWN AS BLOCK 18, LOT 66 IN HOPEWELL TOWNSHIP, NEW JERSEY. COUNTY COST NOT TO EXCEED: \$194,750.00
- NO. 2016-91** MERCER COUNTY BOARD OF CHOSEN FREEHOLDERS AUTHORIZE THE COUNTY EXECUTIVE TO SUBMIT A PETITION OF DISSOLUTION TO THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE DISSOLUTION OF THE I95/295 TRANSPORTATION DEVELOPMENT DISTRICT (TDD)
- NO. 2016-92** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A DEED, A CULVERT ACCESS EASEMENT AGREEMENT AND ANY OTHER DOCUMENTS WITH ARISTA OF EWING, LLC, RELATED TO THE TRANSFER OF CERTAIN PROPERTY KNOWN AS BLOCK 118, P/O LOT 2, EWING TOWNSHIP, MERCER COUNTY (NORTH OLDEN AVENUE/PARKSIDE AVENUE)
- NO. 2016-93** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A TERMINATION OF LEASE AGREEMENT BETWEEN THE COUNTY OF MERCER AND EWING SHOPPING CENTER ASSOCIATES, LLC, REGARDING A PORTION OF LOT 2, BLOCK 118, EWING TOWNSHIP, MERCER COUNTY (N. OLDEN AVENUE/PARKSIDE AVENUE)

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- NO. 2016-94** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A CONTRACT (AWARDED THROUGH A NON-FAIR AND OPEN PROCESS) WITH SAPHIRE AND ALBARRAN, ARCHITECTURE LLC, TO PROVIDE ARCHITECTURAL AND ENGINEERING SERVICES FOR ANTICIPATED CONSTRUCTION PROJECTS. AMOUNT NOT TO EXCEED: \$100,000.00. PERIOD: FEBRUARY 1, 2016 THROUGH JANUARY 31, 2017
- NO. 2016-95** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO EXECUTE A RENTAL CAR OPERATOR GROUND TRANSPORTATION PERMIT AGREEMENT WITH AVIS/BUDGET CAR RENTAL, LLC TO PROVIDE GROUND TRANSPORTATION SERVICES AT THE TRENTON-MERCER AIRPORT. PERIOD: JANUARY 28, 2016 THROUGH JANUARY 27, 2017
- NO. 2016-96** COUNTY EXECUTIVE AND CLERK TO THE BOARD AUTHORIZED TO "EXERCISE AN OPTION TO EXTEND" THE AWARD OF BID CONTRACT WITH VITAL COMMUNICATIONS, INC., FOR FURNISHING AND DELIVERING DATA SERVICE ON TAX RECORDS AND REPORTS FOR THE MERCER COUNTY BOARD OF TAXATION. PERIOD: MARCH 28, 2016 TO MARCH 27, 2018. AMOUNT NOT TO EXCEED: \$110,313.39 (AB2013-65B)

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- NO. 2016-97** AWARD OF BID RECEIVED NOVEMBER 6, 2015 TO ALL CLEAN BUILDING SERVICES, INC., FOR JANITORIAL SERVICES AT VARIOUS BUILDINGS IN MERCER COUNTY, 612 AND 640 SOUTH BROAD STREET, (MCDADE ADMINISTRATION BUILDING), 175 SOUTH BROAD STREET, 400 WARREN STREET, (MERCER COUNTY CRIMINAL AND CIVIL COURTHOUSES) AND 930 SPRUCE STREET (MERCER COUNTY EXTENSION SERVICES), IN MERCER COUNTY. PERIOD: FEBRUARY 1, 2016 THROUGH JANUARY 31, 2018. AMOUNT NOT TO EXCEED: \$1,089,444.16. (AB2015-29)
- NO. 2016-98** REJECTION OF BIDS RECEIVED JANUARY 5, 2016 FOR THE CONVERSION OF THE EXISTING PROPANE FIRE TRAINING PROP AND RENOVATIONS TO THE DRILL TOWER BUILDING AND BURN BUILDING, THE LOW BID EXCEEDS THE BUDGET ALLOCATION AND THE ENGINEER'S ESTIMATE. SPECIFICATIONS SHALL BE REVISED WITH ALTERNATES (AB2015-15)
- NO. 2016-99** APPOINTMENT OF WALTER BROWN TO SERVE AS A MEMBER OF THE MERCER COUNTY LIBRARY COMMISSION
- NO. 2016-100** MERCER COUNTY BOARD OF CHOSEN FREEHOLDERS RECOGNIZES FEBRUARY 5TH 2016 AS WEAR RED DAY IN MERCER COUNTY

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NO. 2016-101 AMEND RESOLUTION NO. 2012-573, ADOPTED NOVEMBER 29, 2012, AND AUTHORIZE THE COUNTY EXECUTIVE AND CLERK TO THE BOARD TO EXECUTE AMENDMENT NO. 1 TO THE GRANT AGREEMENT (NO. 2205508) WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR FUNDING TO ACQUIRE AND INSTALL SECURITY FENCE IMPROVEMENTS AT THE TRENTON-MERCER AIRPORT – AMEND RESOLUTION TO EXTEND THE CONTRACT. PERIOD THROUGH JUNE 30, 2016. NO CHANGE IN FUNDING LEVELS

NO. 2016-102 RESOLUTION TO EXCEED THE COUNTY BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

NO. 2016-103 INTRODUCTION AND APPROVAL OF FIRST READING OF THE 2016 BUDGET

VOTE ON RESOLUTIONS:

Ayes - 6. Nays -0. Abstain - 0. Absent -1.

Ayes – Freeholders Carabelli, Cimino, Colavita, Koontz, Walter and Cannon

Absent – Freeholder Frisby

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ORDINANCES – SECOND READING AND ADOPTIONS

AN ORDINANCE ESTABLISHING THE SALARY FOR 2015 OF THE MERCER COUNTY EXECUTIVE, MERCER COUNTY ADMINISTRATOR, HUMAN SERVICES DIRECTOR, TRANSPORTATION AND INFRASTRUCTURE DIRECTOR, MERCER COUNTY CLERK, MERCER COUNTY SHERIFF, MERCER COUNTY SURROGATE, MERCER COUNTY FREEHOLDER CHAIR, AND MERCER COUNTY BOARD OF CHOSEN FREEHOLDERS

The Clerk to the Board acknowledged receipt of a memorandum from County Executive Brian M. Hughes, dated February 10, 2016, whereby he indicated that he had reviewed the above named Ordinance and found no negative overriding implications, and therefore, he recommended adoption of the Ordinance.

The Clerk to the Board announced that said Ordinance had been properly advertised in accordance with the State Statute, and all requirements had been complied with.

Chair Cannon announced the opening of the Public Hearing on said Ordinance.

Hearing no comments or questions, he called for a motion to close the public hearing.

Freeholder Colavita moved, **“To Close the Public Hearing”**, seconded by Freeholder Cimino.

VOTE ON MOTION

Ayes - 6. Nays - 0. Abstain - 0. Absent -1.

Ayes – Freeholders Carabelli, Cimino, Colavita, Koontz, Walter and Cannon

Absent – Freeholder Frisby

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Freeholder Colavita offered the following Ordinance, seconded by Freeholder Cimino:

ORDINANCE NO. 2016-1

AN ORDINANCE ESTABLISHING THE SALARY FOR 2015 OF THE MERCER COUNTY EXECUTIVE, MERCER COUNTY ADMINISTRATOR, HUMAN SERVICES DIRECTOR, TRANSPORTATION AND INFRASTRUCTURE DIRECTOR, MERCER COUNTY CLERK, MERCER COUNTY SHERIFF, MERCER COUNTY SURROGATE, MERCER COUNTY FREEHOLDER CHAIR, AND MERCER COUNTY BOARD OF CHOSEN FREEHOLDERS

VOTE ON ORDINANCE

Ayes - 6. Nays - 0. Abstain - 0. Absent -1.

Ayes – Freeholders Carabelli, Cimino, Colavita, Koontz, Walter and Cannon

Absent – Freeholder Frisby

At this time, Chair Cannon invited the members of the public to comment on any item listed on the agenda.

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ADJOURNMENT

A motion to adjourn the Formal Meeting was offered by Freeholder Carabelli and seconded by Freeholder Colavita, which was adopted by the unanimous vote of the members of the Mercer County Board of Chosen Freeholders.

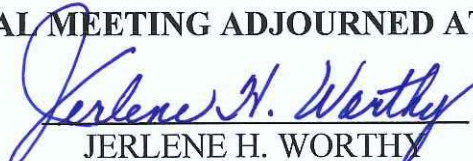
VOTE ON MOTION

Ayes – 6. Nays - 0. Abstain - 0. Absent -1.

Ayes – Freeholders Carabelli, Cimino, Colavita, Koontz, Walter, and Cannon

Absent – Freeholder Frisby

FORMAL MEETING ADJOURNED AT 8:05 PM


JERLENE H. WORTHY
CLERK TO THE BOARD

gb

2016 Budget Address
Brian M. Hughes, County Executive
Mercer County, New Jersey
Presented before the Mercer County Board of Chosen Freeholders
Thursday, February 11, 2016

Chairwoman Cannon, esteemed freeholders, and guests; it is my pleasure to be before you this evening. Tonight I present to you my proposed 2016 budget for Mercer County.

I am exceptionally proud of our track record of presenting a responsible, prudent budget -- on time -- each and every year. I would like to thank this board for its thoughtful consideration of this and every budget I've brought before you.

Despite downturns in revenue, our long-term fiscal prudence has enabled us to maintain services while keeping expenditure growth within the State-mandated cap. Once again, this year's proposed budget is within the 2 percent cap. In addition to the innumerable programs and services that we provide for our residents, Mercer County has established a tax rate that is not overly burdensome to our community, and just this week was cited among the top three counties in the state when it comes to tax stability. With this in mind, Mercer County has aggressively sought state and federal funding to offset many of our expenditures.

As you know, Mercer County boasts some of the finest park facilities in New Jersey. Our fantastic park system and our vast open space acquisitions are assets that we can highlight when attracting and retaining business to our county. We've seen significant economic development activity over the last five years and weathered the deep recession that impacted our country. The quality of life enjoyed here is instrumental in attracting new businesses and families, keeping our employment rate steady, and helping us stay ahead of future economic downturns. We were recently recognized for having the strongest job growth of all the largest counties in New Jersey. As of November, unemployment in Mercer County was down to 4.2 percent, 5th in the state, and our bond rating has remained a healthy AA+. Despite a recession, one particular development of note, the Amazon fulfillment center in Robbinsville, hired 4,000 full-time employees with seasonal spikes to 6,000. This project along with a strong pipeline of economic development activity for 2016 will fuel a continued healthy economy.

The project I'm most excited to advance is a new passenger terminal at Trenton-Mercer Airport. My administration has been extremely conservative in handling the gradual expansion of Frontier Airlines at Trenton-Mercer Airport. Frontier began service here in late 2012, and has proven to be a strong figure in the airline industry, nimbly adapting to the desires of the traveling public. As I discussed a few weeks ago in my annual address, our outdated terminal is inadequate to handle the nearly 1 million passengers that travel in and out of our terminal each year, and our investments in terminal improvements and parking lots have already been recovered through airport revenue, without a penny coming from taxes. Under the leadership of Deputy Administrator Aaron T. Watson, we've begun deliberations with our consultant, Urban Engineers, and look forward to working with the freeholder board on this exciting project. This new passenger terminal will be one of the most significant infrastructure investments by the county in a long time.

I would also like to address here tonight my administration's plan for the future of the Mercer County Correction Center. According to the U.S. Department of Justice, more than 10,000 ex-offenders are released from prison every week and arrive on the doorsteps of our communities. Studies show that about two-thirds will be arrested again within three years of release. There has

been a national shift in our way of thinking when it comes to preparing inmates for successful re-entry into our communities. With no job, no money, no place to live, and often addicted to drugs or struggling with mental illness, our prisoners face the same hurdles that landed them in jail in the first place.

Our Mercer County Correction Center houses about 700 inmates each and every day. It's an aging facility, with segments dating back to 1892. The facility we have today is one that was cobbled together over the past 100-plus years and frankly was not designed to handle the numbers and types of offenders we see today. We have no capacity or space to offer the therapeutic programs that can help prepare the men and women in our custody to re-enter society with the skills necessary to become productive members of society. We are severely constrained from further build-out at the Hopewell facility because there are no sewer lines and we are at maximum capacity for water usage. My administration has explored the possibility of building a new correction center in Mercer County but the estimated cost would be prohibitive, at about 400 million to 500 million dollars, an amount that would trigger a staggering tax increase – the tax increase just on the debt service would be between 20 million and 30 million dollars a year, to give you an idea.

My administration and I have decided to enter into an agreement with Hudson County to house Mercer County inmates there. The reason Mercer is going with Hudson is that Hudson County offers an impressive and progressive array of programs and medical services that I believe will make a significant difference in the outcomes for our Mercer County inmates when they return to their homes in our Mercer communities.

Data from our Human Services Office indicate that of the 1,800 Mercer residents admitted for addiction treatment in 2014, more than 30 percent were involved in the legal system. We also observed that in our jail, more than 60 percent of those incarcerated have an addiction or mental health problem. We need to do a better job of helping ex-offenders re-enter society, and we believe Hudson County is far better equipped to help us achieve our goal.

Services offered by Hudson County include comprehensive mental health services including substance abuse treatment; pre-release services including GED provisions, and life skills and literacy classes, career testing, vocational training and computer skills classes. Hudson also offers Comprehensive Community Reintegration Programming including behavioral training and anger management counseling; and post-release services, such as transitional housing placement and connections through the local career center.

We believe Hudson County can offer Mercer County inmates the types of services we currently cannot provide, at a substantially lower cost than we currently pay for our existing facility and services. This regionalization will allow us to contract with a county that has excess capacity as we continue to explore the future of our facility and as we learn the ramifications of the mandated bail and speedy trial reforms.

We will not completely shutter our correction center. In fact, we will receive and process all inmates at the Hopewell facility, and our community cleanup program, known as SLAP, will continue to operate, as will the Annex. Our plan is to retain somewhere around 80 employees, and there will be opportunities for qualified employees to apply for positions with Hudson County. But we will be reducing our workforce, through attrition and through separation. Our office of employee relations will be conducting information sessions over the next several months to explain how employees might be affected. The guiding principles of this effort have been to

provide a modern and human corrections environment with the goal of ending “revolving door” justice.

As I stated earlier, our budget proposals since I’ve been County Executive have been marked by austerity and balance, and this year again represents our effort to provide the best possible government to our constituents in the most cost-effective manner to the taxpayer.

Consistently, about 70 percent of our costs are fixed and will go to salary, wages and benefits for our employees; and more than 50 percent of our overall budget goes toward public safety.

The past few years have seen an upswing in business development throughout Mercer County. That upswing does not have us at pre-recession levels, but we continue to see new development, especially in the City of Trenton.

But while that economic activity is positive news and a ray of hope, it doesn’t yet represent revenue that will support our budget. The bulk of our revenue comes from property taxes and we anticipate that the ratable growth will continue to lag behind business recovery.

Tonight I present to you a proposed operating budget for 2016 in the amount of \$302 million that is well under the state-mandated cap. For this year’s budget plan, I am proposing we utilize \$9.9 million – or roughly half of our surplus – about the same percentage we used last year, and leaving a \$10 million balance.

Of this total budget, \$255 million will be collected locally through property tax. This represents a 2% increase in the levy over last year and is less than a penny increase on the tax rate.

Law enforcement costs continue to rise and more than 50 percent of the proposed 2016 budget will go toward public safety, including the Prosecutor’s Office, Sheriff’s Office, Police Academy and Corrections. The Police and Fire Retirement System (PFRS) saw an increase of more than \$1.5 million, and our unfunded mandate to provide mental health services to inmates is also up by about \$1 million. I want to note that once again, we are paying our full share of our pension costs, something the state has rarely done over the past several years.

Costs at our 911 Call Center have also increased by about \$1 million as a result of costs associated with expanded services – costs that we could pass along to the municipalities but instead are taking on at the county level and thereby offering relief to our towns. Some of these increases will be offset by decreases to our health benefits costs, which are down about \$1 million, and our gasoline costs, which have dropped by about 50 percent, saving us \$648,000.

Our job is to provide a government that understands its limits and avoids the wild fluctuations seen in other counties around the state. It is important to me that the citizens of this county know that we work hard to keep the ship steady. I and the rest of my administration look forward to working together with this freeholder board to come to a final budget that is fiscally responsible and representative of good, efficient government.

Thank you very much for your time.



JERLENE H. WORTHY, CLERK
BOARD OF CHOSEN FREEHOLDERS

COUNTY OF MERCER
McDADE ADMINISTRATION BUILDING
640 SOUTH BROAD STREET
P.O. BOX 8068
TRENTON, NEW JERSEY 08650-0068
(609) 989-6584
Fax: (609) 392-0488

LISA M. VENA
DEPUTY CLERK

MERCER COUNTY BOARD OF CHOSEN FREEHOLDERS

INFORMAL MEETING OF FEBRUARY 9, 2016

MINUTES

Freeholder Board Chair Cannon called the Agenda Meeting to order at 6:07 P.M. on February 9, 2016, in Room 211 of the Joyce L. McDade Administration Building, 640 South Broad Street, Trenton, New Jersey.

ROLL CALL

The following members of the Board answered the Roll Call of the Clerk to the Board:

Present - Freeholders Carabelli, Cimino, Koontz, Walter, and Cannon
Absent - Freeholders Colavita and Frisby

Chair Cannon led the Pledge of Allegiance and Salute to the Flag.

SUNSHINE LAW

The Clerk to the Board announced that in accordance with the provisions of the New Jersey Open Public Meetings Law, notice of this Informal Meeting had been mailed to The Trenton Times, The Trentonian and The Princeton Packet newspapers as well as having been posted in both the County Administration Building and Courthouse at least forty-eight (48) hours in advance of the meeting.

-2-

Chair Cannon requested a moment of silence for the recent passing of John Willmot, brother of Julie Willmot, Director of Communications and Policy, and Mayor Eric Jackson's mother Ms. Gladys Walker Jackson.

At this time, Chair Cannon invited the members of the public to comment on any item listed on the Agenda.

COMMUNICATIONS

Six (6) communications were discussed and approved for placement on the Agenda for the Formal Meeting of February 11, 2016.

RESOLUTIONS

Twenty-two (22) proposed Resolutions were discussed and approved for placement on the agenda for the Formal Meeting of March 22, 2016.

Ms. Jerlene H. Worthy, Clerk to the Board, informed the Freeholders that there was an issue with the following proposed Resolution regarding Amendment No. 1 to the Grant Agreement (No. 2205508) with the New Jersey Department of Transportation for Funding to acquire and install security fence improvements at the Trenton-Mercer Airport – Amend the Contract Period through June 30, 2016. No change in funding levels. She stated that County Counsel would explain the matter further.

Paul Adezio, Esq., Deputy County Counsel, stated that the Resolution was originally adopted by the Board in 2012 with a projected completion date of March 2014. Mr. Adezio explained that the project was still not completed to date and the contract period needed to be extended until June 2016 for final completion. He explained this Amendment would not change funding but only the time period.

Freeholder Walter asked if there was a completion date listed in the original contract.

Mr. Adezio said he was unaware of the date but would inform the Board.

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Freeholder Cimino asked why the project was delayed.

Mr. Adezio explained the New Jersey Department of Transportation and the Federal Aviation Administration requirements delayed the completion of the project.

David Miller, County Treasurer, made reference to the following proposed Resolution authorizing to execute a Mutual Aid and Assistance Agreement with the County of Mercer Office of Emergency Management to provide services to Municipalities and Jurisdictions within Mercer County in the event of an Emergency Situation or a Formal Declaration of an Emergency. Mr. Miller explained that this Resolution was highly recommended by the Fire Chiefs Association.

Freeholder Koontz explained that in previous years individual municipalities would make individual agreements with aid or assistance to their towns. He asked if this Resolution would supersede all the Agreements already in place with municipalities.

Mr. Miller stated that particular counties may not provide mutual aid or assistance to other county entities. He stated that he would provide further information to the Board.

Freeholder Walter stated the time period contained in the Resolution was until the year 2020. She asked if that time period was determined by the State law that governs mutual aid agreements.

Mr. Miller concurred.

Freeholder Cimino made reference to the following proposed Resolution authorizing to execute a contract with Sapphire and Albarran Architecture LLC, to provide Architectural and Engineering Services for anticipated construction projects. He asked the specificity of the project that was anticipated.

Mr. Andrew Mair, County Administrator, stated that he would look into the matter further and inform the Board of the intended project.

Freeholder Cimino requested further information regarding the project.

Freeholder Walter stated that she was unfamiliar with the firm and requested their background expertise on construction projects they have completed.

-4-

Freeholder Koontz discussed the process that determined the amount of vendors that could maintain space at the Trenton-Mercer Airport. He made reference to the following proposed Resolution authorizing a Rental Car Operator Ground Transportation Permit Agreement with Avis/Budget Car Rental, LLC to provide Ground Transportation Services at the Trenton-Mercer Airport.

Freeholder Walter made reference to the following proposed Resolution authorizing to submit a Petition of Dissolution to the Commissioner of the New Jersey Department of Transportation for the Dissolution of the I95/295 Transportation Development District (TDD). She stated that she had no problem with the Resolution except for the language contained in third whereas. Freeholder Walter stated that an Ordinance was never formally adopted by the Freeholder Board amending the TDD.

Ms. Leslie Floyd, Planning Director, explained that the amended area was contained in the Resolution. She stated that she would be happy to amend the language if it were acceptable to the Board to accomplish the goal of dissolving the TDD.

Mr. Mair explained that the language change would be a di minimis change.

-5-

ORDINANCES – SECOND READING AND ADOPTIONS

AN ORDINANCE ESTABLISHING THE SALARY FOR 2015 OF THE MERCER COUNTY EXECUTIVE, MERCER COUNTY ADMINISTRATOR, HUMAN SERVICES DIRECTOR, TRANSPORTATION AND INFRASTRUCTURE DIRECTOR, MERCER COUNTY CLERK, MERCER COUNTY SHERIFF, MERCER COUNTY SURROGATE, MERCER COUNTY FREEHOLDER CHAIR, AND MERCER COUNTY BOARD OF CHOSEN FREEHOLDERS

1. The Clerk to the Board acknowledged receipt of a memorandum from County Executive Brian M. Hughes dated February 10, 2016, whereby he indicated that he had reviewed the above named Ordinance and found no negative overriding implications; therefore, he recommended adoption of the Ordinance.
 2. The Clerk to the Board announced that said Ordinance had been properly advertised in accordance with the State Statute and all requirements have been complied with.
 3. The Chair of the Board announced the opening of the Public Hearing on said Ordinance.
 4. MOTION TO CLOSE PUBLIC HEARING
 5. ADOPTION OF ORDINANCE
-

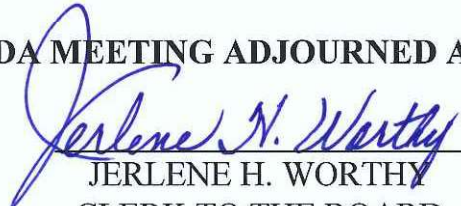
-6-

PUBLIC SECTION

At this time, Chair Cannon invited the members of the public to comment on any item listed on the agenda.

There were no comments.

AGENDA MEETING ADJOURNED AT 6:43 PM


JERLENE H. WORTHY
CLERK TO THE BOARD

gb

Exhibit C



PATRICK COLLIGAN
State President

MARC KOVAR
Executive Vice-President

ORGANIZED 1896
MEMBERSHIP OVER 30,000

732-636-8860
FAX 732-636-0172
1-888-4NJSPBA
1-888-465-7722

New Jersey State
Holicemen's Benevolent Association, Inc.
158 Main Street Woodbridge, New Jersey 07095

October 22, 2019

Honorable Chair and Members of the Board of Chosen Freeholders of Mercer County
McDade Administration Building
640 South Broad Street
P.O. Box 8068
Trenton, NJ 08650

Dear Chair and Members of the Board:

I am writing today to express my strong opposition to the proposed merger of the Mercer County Correctional Facility with Hudson County.

I would love nothing more than to be there in person to ask you to take this proposed merger off the agenda, but I am currently presiding over the previously scheduled State PBA Annual Convention. Rest assured, the Mercer County Freeholder Board meeting will definitely be a topic of conversation.

In the past, we have had a tremendous working relationship. That is why I cannot understand why you are even considering a proposal that will have a significant long-term negative impact on Mercer County taxpayers while also potentially placing your constituents and surrounding areas in peril.

It is my understanding that each member of the Freeholder Board is already in possession of detailed analysis put forth by legal counsel representing 167 and 167A. This analysis was done using your own Staffing Analysis of September 19 along with the September 10, 2019 report provided by the consulting firm responsible for this truly awful proposal.

An unbiased analysis of your own data shows that the "savings" proposed N.W. Financial report will never be realized. This review shows that your staffing report of just over one month ago determined that there were 135 officers, not including supervisors, needed to run the Mercer County jail after any agreement. Yet, the report submitted by these Hudson County consultants

Honorable Chair and Members of the Board of Chosen Freeholders of Mercer County
Page 2
October 22, 2019

assumes taxpayer savings based upon staffing only 98 officers to cover the same number of posts, not including supervisors.

This alone represents more than \$6 million in additional costs or one-half of the false savings in the merger proposal! Unless you plan to ignore your own staffing report and significantly understaff the jail, county taxpayers will be on the hook because this is far from the only cost that the consultants ignore.

The N.W Financial report also ignores the five-year average of \$10 million per year in overtime and average uniformed officer overtime of \$50,000 in 2018 and, instead, assumes an overtime cost of zero! It also undercounts fringe benefits by over \$1.5 million and ignores the five-year maintenance average of \$3.657 million by cutting it by more than 2/3rds for additional, phantom, savings. These additional ignored costs add at least \$6 million more in costs.

The full savings being claimed in this proposal are not based in reality because your own data shows the ignored costs exceed the savings being claimed. And, the people you represent will have to pay for it.

Further, if this proposal goes through, you will be authorizing the transport of busloads of prisoners back and forth on the Turnpike over 60 miles a day.

Logistically, this long-distance busing proposal on our already congested roadways makes no sense. You have all driven the same roads that are now being proposed for daily prisoner transport. It is absurd for anyone to believe a drive back and forth on the Turnpike will be anything but unpredictable on a day-to-day basis.

This discussion isn't about the distance on a map; it's about officers transporting prisoners back and forth on the Turnpike over many miles subject to ever changing daily perils. Inclement weather, construction, and car accidents all create a travel environment that is difficult for even the daily commuter driving in the left lane. The impact of the inevitable delays are not calculable here today.

If this proposal is approved you will have judges in Mercer requesting defendants be brought in from Hudson County, sometimes on a moment's notice. Or you'll have prisoners being transported from Trenton up to Hudson. These are costs you cannot possibly be able to calculate with travel hazards

How much of your alleged savings will vanish based on traffic delays, transportation, or a missed court date that needs to be rescheduled as a result? What happens to your alleged savings when Hudson County can't do intake quickly enough and your officers are left waiting

Honorable Chair and Members of the Board of Chosen Freeholders of Mercer County

Page 3

October 22, 2019

hours? One 8 AM bus trip could mean you don't see those officers again until their shift is done. The overtime costs due to unforeseen circumstances are incalculable.

Then there are the pressures you cannot begin to imagine being placed on your corrections officers. Transfers in rush hour traffic that can end up costing taxpayers in both counties because of an overturned tractor trailer or a lane closed for construction. That is a ride that can make even the driver coming home from work by himself or herself fraught with tension.

Now add a busload of prisoners and the knowledge that any one of these traffic choke points could be the scene of an ambush. At the risk of painting this Freeholder Board an unimaginable picture, we know enough about desperate criminal behavior and gangs to know it is certainly not out of the realm of possibility.

I cannot state strongly enough exactly how bad this proposal will be for all those involved. This is a dangerous, misguided alliance that will not live up to the expectations being presented to the public and will, in fact, cost County taxpayers money.

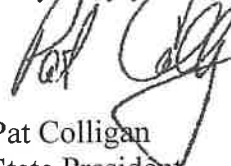
Many good officers and their families will be impacted for years to come for savings being promised that will NEVER materialize, all while the Mercer County court system gets thrown into chaos and busloads of prisoners sit in Turnpike traffic.

This is a logistical and public safety nightmare waiting to happen, all while you eliminate good-paying jobs in your county.

Our corrections officers deserve better and the people you represent deserve better than to be told this will all run smoothly because of the false claims made by an outside consulting firm.

I am asking again that you at the very least shelve this proposal until you have real answers to questions being raised here. The State PBA and our officers in Mercer County are willing and cooperative partners in protecting public safety while respecting your bottom line. This proposal will NOT work and you shouldn't waste taxpayer money and risk the lives of hard-working law enforcement officers to find that out.

Very truly yours,



Pat Colligan
State President

cc: Jerlene H. Worthy, Clerk to the Board of Chosen Freeholders
Michael W. Herbert, Board Counsel

Exhibit D



COUNTY OF HUDSON, NEW JERSEY
OFFICE OF THE COUNTY COUNSEL
DEPARTMENT OF LAW
ADMINISTRATION BUILDING ANNEX
567 PAVONIA AVENUE
JERSEY CITY, NJ 07306
(201) 795-6250
Fax: (201) 795-6428

THOMAS A. DeGISE
County Executive

DONATO J. BATTISTA
County Counsel

LOUIS C. ROSEN
Deputy County Counsel

DANIEL J. DeSALVO
Deputy County Counsel

MICHAEL L. DERMODY
1st Assistant County Counsel

Susan A. McCurrie
2nd Assistant County Counsel

Neil J. Carroll, Jr.
John J. Collins
Alberico De Pierro
David B. Drumeler
Christine M. Moro
Robin Moses
Georgina Giordano Pallitto
Nidara Rourk
Daniel W. Sexton
John A. Smith, III
Aurelio Vincitore
Laura J. Wadleigh

October 24, 2019

Jerlene H. Worthy, Clerk to the Board
Mercer County Board of Chosen Freeholders
County of Mercer
McDade Administration Building
640 South Broad Street
P.O. Box 8068
Trenton, New Jersey 08650-0068

Dear Ms. Worthy:

Enclosed please find two (2) fully executed copies of the Mercer- Hudson inmate housing agreement along with a copy of the certified Resolution evidencing approval for the agreement by the Hudson County Freeholder Board.

I have also enclosed the original October 23, 2019 letter of Hudson County Administrator Abraham Antun previously sent to Mercer County by email.

Very truly yours,

DONATO J. BATTISTA
HUDSON COUNTY COUNSEL

DJB/ek

cc: Paul R. Adezio, County Counsel

**BOARD OF CHOSEN FREEHOLDERS
COUNTY OF HUDSON
RESOLUTION**

No. *655-10-2019*

On Motion of Freeholder
Seconded by Freeholder

*Vainieri
Romano*

**AUTHORIZING AN AGREEMENT
BETWEEN
THE COUNTY OF HUDSON AND THE COUNTY OF MERCER
AUTHORIZING MERCER COUNTY INMATES TO BE HOUSED AT THE
HUDSON COUNTY CORRECTIONAL AND REHABILITATION CENTER**

WHEREAS, the County of Mercer ("Mercer") is desirous in sending a portion of their inmates to be housed at the Hudson County Correctional and Rehabilitation Center ("Correctional Center"); and

WHEREAS, County of Hudson wishes to enter into an Agreement with the County of Mercer for the purpose of authorizing Hudson County to house Mercer County inmates; and

WHEREAS, the Local Public Contracts law, N.J.S.A. 40A:11-5 (2) permits the awarding of a contract with another county without public advertising for bids, and requires that the resolution and the terms be available for public inspection; and

WHEREAS, the County of Hudson has agreed to house a minimum of 300 Mercer County inmates at the Correctional Center for two (2) years commencing on January 1, 2020 through December 31, 2021; and

WHEREAS, the County of Hudson shall provide housing, food, security, medical, dental, mental health, and formulary medication services to the Mercer County inmates; and

WHEREAS, Mercer will pay Hudson **ONE HUNDRED TWO DOLLARS AND 00/100 (\$102.00)** per inmate per day for years one (1) and two (2) of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Chosen Freeholders to the County of Hudson, that:

1. The aforesaid recitals are incorporated herein as though fully set forth at length.
2. The Board hereby authorizes the County Executive, Thomas A. DeGise, or County Administrator, Abraham Antun, or Deputy County Administrator, David B. Drumeler, or their lawfully appointed designee, to execute any and all documents and take any and all actions necessary to complete and realize the intent and purpose of this Resolution.
3. The County Executive, or his lawful designee, is hereby authorized to pay for the above referenced services based upon the following information:

Term of Agreement: January 1, 2020- December 31, 2021

Cost to be paid to Hudson: \$102.00 per inmate per day

County Department
Originating Request: Department of Law

**BOARD OF CHOSEN FREEHOLDERS
COUNTY OF HUDSON
RESOLUTION**

No.

On Motion of Freeholder
Seconded by Freeholder

4. This Resolution shall take effect immediately.

Freeholder	Aye	Nay	Abst	N.P.	Freeholder	Aye	Nay	Abst	N.P.
Walker	/				Rivas	/			
Cifelli	/				Rodriguez	/			
Kopacz				/	Romano	/			
Torres	/				Chairman Valinteri	/			
O'Dea	/								

It is hereby certified that at a regular meeting of the Board of Freeholders of the County of Hudson held on the 31 day of Oct A.D. 2019, the foregoing resolution was adopted with 8 members voting in the affirmative and 0 in the negative.

APPROVED AS TO LEGAL FORM

BY:
DONATO J. BATTISTA
HUDSON COUNTY COUNSEL
Source: Law
CM/ek

 Clerk



COUNTY OF HUDSON
OFFICE OF THE COUNTY ADMINISTRATOR
ADMINISTRATION ANNEX
567 PAVONIA AVENUE
JERSEY CITY, NJ 07306
TEL: 201 795-6100
FAX: 201 795-6520

THOMAS A. DE GISE
County Executive

ABRAHAM ANTUN
County Administrator

DAVID B. DRUMELER, ESQ.
Deputy County Administrator

OSCAR AVILES
Assistant County Administrator

October 23, 2019

Mr. Andrew A. Mair, County Administrator
Office of the Mercer County Administrator
McDade Administration Building
640 South Broad Street
P.O. Box 8068
Trenton, New Jersey 08650

RE: Hudson County/Mercer County Agreement – Housing Mercer County Inmates

Dear Mr. Mair,

As you know the Hudson County Board of Chosen Freeholders will be considering for approval the agreement negotiated between Hudson County and Mercer County for the housing of Mercer County inmates, which agreement was approved by your Board on October 22, 2019.

Please be advised that once the agreement is approved by the Board and implemented, the Hudson County Department of Corrections and Rehabilitation will abide by the procedures and practices outlined in the communication of Director Ronald Edwards attached hereto.

Very Truly Yours,

A handwritten signature in black ink, appearing to be "Abraham Antun", is written over a horizontal line.

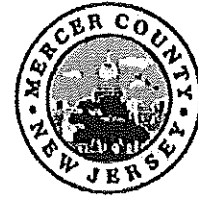
Abraham Antun
Hudson County Administrator



KELVIN S. GANGES
Chief of Staff

COUNTY OF MERCER
OFFICE OF THE COUNTY ADMINISTRATOR
McDade Administration Building
640 South Broad Street
P.O. Box 8068
Trenton, New Jersey 08650-8068


BRIAN M. HUGHES
County Executive



ANDREW A. MAIR
County Administrator

MEMORANDUM

TO: Jerlene H. Worthy, Clerk to the Board of Chosen Freeholders

FROM: Lillian Nazzaro, Esq., Deputy County Administrator 

DATE: October 22, 2019

RE: Hudson County Policy regarding Mercer Inmates

Attached, please find a communication from Ronald P. Edwards, Director, Department of Corrections & Rehabilitation, County of Hudson.

AAM/cw



THOMAS A. DeGISE
COUNTY EXECUTIVE

COUNTY OF HUDSON
DEPARTMENT OF CORRECTIONS
AND REHABILITATION
OFFICE OF THE DIRECTOR
30 Hackensack Avenue
Kearny, NJ 07032
201-395-5600 Ext. 5005



RONALD P. EDWARDS
DIRECTOR

Hudson County Department of Corrections & Rehabilitation Center's (HCDoc&R) policy will be; Mercer County inmates housed at the HCDoc&R will have the same discovery privileges as they do at Mercer County Correctional Center. Mercer County inmates will have access to their "legal mail" stored on a flash drive (which is opened and viewed in the presence of a custody staff member to ensure that there is no unauthorized material on the USB drive). There are twenty-five computers located in the law library; all are equipped with Lexis Nexus. Each housing unit is assigned a schedule for the law library. Individuals who are housed in restricted and/or special housing units will have access to County laptops specifically for their legal needs inclusive of Lexis Nexus as a software. Lexis Nexus is also available on the kiosk system, which is available to all inmates in each housing unit.

Mercer County Public Defenders and private attorneys will have access to their clients through:

- A designated professional visit conference room available seven days a week from 8:00 A.M. to 8:00 P.M. (Laptops or surface-pros will be permitted).
- Video Visitation System. Four rooms in total. Instructions for registration can be found on the Hudson County website (www.hudsoncountynj.org). Free of charge.
- Two Video Conference Rooms available six days a week from 8:00 A.M to 5:00 P.M

*Mercer County will bear the cost for video conference connection and hardware/software to be installed at their Public Defenders Office.

Sincerely,

Ronald P. Edwards
Director
Department of Corrections & Rehabilitation

AGREEMENT

by and between the

COUNTY OF HUDSON, NEW JERSEY

and the

COUNTY OF MERCER, NEW JERSEY

**FOR THE PROVISION OF
HUDSON COUNTY CORRECTIONAL CENTER SERVICES**

Dated: October , 2019

AGREEMENT

THIS AGREEMENT ("Agreement"), dated this day of October , 2019 by and between the County of Hudson, a body politic and corporate of the State of New Jersey ("Hudson"), and the County of Mercer, a body politic and corporate of the State of New Jersey ("Mercer") and collectively referred to as "Counties".

RECITAL

1. The County of Hudson ("Hudson") is a body politic and corporate of the State of New Jersey with main offices located at 567 Pavonia Avenue, Jersey City, New Jersey 07306;
2. The County of Mercer ("Mercer") is a body politic and corporate of the State of New Jersey with main offices located at 640 S. Broad Street, Trenton, New Jersey 08650;
3. Mercer County will need to relocate Mercer County inmates; and
4. Hudson County agrees to house a minimum of 300 Mercer County inmates in the Hudson County Correctional Center ("HCCC") located at 30-35 Hackensack Avenue, Kearny, New Jersey 07032 subject to the following conditions; and
5. N.J.S.A. 40A:11-5(2), specifically authorizes local government units, including counties and municipalities, to enter into Agreements.

NOW, THEREFORE, in consideration of the mutual promises, agreements and considerations made by and between the parties, Hudson and Mercer do hereby agree as follows:

A. **TERM**

This Agreement shall commence on January 1, 2020, provided both Counties have fully executed this Agreement and shall continue until December 31, 2021.

B. **COMPENSATION**

1. Hudson shall provide housing, food, and security, as well as in-facility medical, dental, mental health and formulary medication services. Mercer County agrees to pay Hudson \$102.00 for the 1st year and the 2nd year of the Agreement per day, or any part of a day, per Mercer inmate.
2. Upon execution of this Agreement, Mercer shall transport up to 64 inmates per week to Hudson over the course of four (4) consecutive weeks and pay for each inmate \$102.00 per day, or any part of the day, during this transportation time. Sixty days after the commencement of the Agreement, Mercer shall pay for a minimum of 300 inmates per day, or any part of a day for the duration of the Agreement.
3. Mercer agrees that it will be billed at the minimum number of inmates to be housed by Hudson pursuant to the terms of this Agreement, which is 300, and Mercer shall pay Hudson at the minimum number even if the number of inmates housed on a daily basis is less than 300. For any Mercer inmates in excess of the minimum, Mercer shall be billed and shall pay at the per day rate, or any part of the day rate, for each additional inmate. The minimum payment shall commence no later than February 1, 2020 or when there are at least 300 inmates has been delivered to the HCCC, however until then Mercer shall pay on a per day rate for each inmate delivered to the HCCC.
4. For any damage cost not otherwise covered by insurance, Mercer will reimburse Hudson for the cost of all physical damage exceeding \$300.00 per incident done to the HCCC by Mercer inmates. Hudson will conduct any inmate disciplinary hearing required. Hudson will provide Mercer with all incident reports and disciplinary documentation (if applicable) related to damage caused by Mercer County inmates.

- 5 Hudson shall bill Mercer monthly electronically. Bills shall be paid by Mercer within 60 days of receipt of bill from Hudson. Hudson shall forward bills to: Finance Director, County of Mercer, McDade Administration Building, 640 South Broad Street, Trenton, New Jersey 08650 beginning February 1, 2020 and monthly thereafter. All payments should be made payable to the County of Hudson, Attention: Finance 567 Pavonia Avenue, 3rd Floor, Jersey City, New Jersey 073062 for processing. At the option of Mercer payment may be made electronically and Hudson agrees to cooperate with Mercer to effectuate that process.

C. **MEDICAL TREATMENT**

1. Prior to transfer, Mercer shall conduct a full initial medical screening on each Mercer inmate scheduled for transfer to Hudson and each Mercer County inmate transferred to Hudson must be medically cleared for release into the general population at the Hudson County Correctional Center. All medical records must accompany the Mercer inmate.
2. In accordance with the requirements of N.J.A.C. 10A:13-13.1 *et seq.* Hudson shall provide Mercer inmates with medical, mental, dental and formulary medication care which are standard, ordinary, non-hospital, non-emergency care provided within the Hudson County Correctional Center. Mercer shall be responsible for the cost of non-formulary prescription medications. However, Mercer shall receive the benefit of the contractual relationship Hudson has with North Hudson Community Action Corp., a Federally Qualified Health Care Center ("FQHCC") and any successor FQHCC, as to the billing for non-formulary medications provided to Mercer inmates in the custody of Hudson.
3. Hudson shall provide medical services outside the Hudson County Correctional Center as follows:
 - a. Mercer shall prepare the New Jersey Family Care Application and forward the Application to Hudson for each Mercer inmate. The Application will be used to enroll the Mercer inmate into the Medicaid Affordable Care Act Program. Mercer and Hudson shall work cooperatively to achieve Medicaid enrollment for Mercer inmates. In the event a Family Care Application is not supplied at the time of transport of any inmate then Mercer shall provide it to Hudson within thirty (30) days of the date Hudson receives the inmate.

- b. In the event of a medical emergency, Mercer County inmates shall be transported to the Jersey City Medical Center located at 355 Grand Street, Jersey City, New Jersey 07302 for emergency treatment. The location of the hospital for emergency treatment could change during the term of this Agreement. Hudson shall provide security in the Jersey City Medical Center or replacement facility at the rate of \$50.00 per hour per officer with a minimum of two(2) officers per inmate.
 - c. Once stabilized, and provided additional medical care is required, the Mercer County inmates shall be transported to a hospital which is to be designated by Hudson but currently it is the Jersey City Medical Center located at 355 Grand Street, Jersey City, New Jersey 07302 for continuing treatment. The location of the hospital could also change during the term of this Agreement. Hudson may enter into agreements with other counties for the supervision of those Mercer inmates housed in a hospital at a replacement hospital in order to provide security to Mercer inmates receiving medical care. Mercer shall pay to Hudson per inmate per day at the rate of two (2) corrections officers per hour per inmate at the rate of \$50.00 per hour. In the event Hudson uses a different hospital and enters into an agreement with another county to provide security at that hospital then Mercer shall pay Hudson per inmate per day under said agreement, a copy of which shall be supplied to Mercer. By signing this Agreement Mercer acknowledges that once an inmate is sent to a hospital, which is approved by Mercer, Mercer will be required to pay directly the hospital for the cost of the hospitalization.
 - d. All Mercer inmate medical bills from the JCMC and any hospital housing an inmate shall be forwarded to the Finance Director, County of Mercer, McDade Administration Building, 640 South Broad Street, Trenton, New Jersey 08650 for payment. Payment shall be made to the hospitals. Hudson shall have no responsibility for these bills. Mercer shall provide Hudson with notification of payment of the bills.
4. Mercer County shall be responsible for the costs relating to any other medical needs of an inmate which are not otherwise provided for or addressed by the terms of this Agreement for example, nursing home or hospice care.

D. TRANSPORTATION AND RELEASE

- 1. Mercer shall be responsible to provide transportation to and from Mercer County Superior Court for Mercer inmates or for Court ordered assessments of Mercer inmates.

2. Mercer County shall transport Mercer inmates released on bail back to Mercer County in order to obtain personal property stored in Mercer County.
3. Hudson shall transport Mercer inmates to hospitals and medical referrals, to a medical office or clinic, or outside the Hudson County Correctional Center. Hudson Officers are required to provide security for Mercer inmates awaiting medical treatment and during medical treatment at the Jersey City Medical Center ("JCMC").
4. Mercer shall reimburse Hudson at a rate of \$50.00 per hour per officer for such medical transportation provided to Mercer inmates. Typically two (2) officers are required for transporting one (1) inmate in a car or four (4) officers are required to transport up to thirteen (13) inmates in a van. Hudson shall bill Mercer beginning January 1, 2020 and monthly thereafter for medical transportation costs. Time shall be rounded to the nearest quarter hour. Hudson shall ensure that no Hudson inmate is transported with any Mercer inmate.
 - a. Each bill shall contain the following information:
 - i. Name of Inmate(s)
 - ii. Date of Transport
 - iii. Purpose of Transport
 - iv. Name and location of destination
 - v. Number of officers transporting inmate
 - vi. Number of hours
5. In the event that Mercer is unable, due to circumstances beyond its control, to provide transportation of any Mercer inmates, Hudson will supply the transportation, if requested by Mercer, Mercer shall reimburse Hudson at the rate of \$50.00 per hour per officer for any officer used by Hudson in connection with the transportation. Additionally, Mercer shall pay Hudson for the mileage to and from the Mercer facility at the then applicable mileage reimbursement rate promulgated by the Internal Revenue Service.
6. Mercer shall be solely responsible to effectuate the release from incarceration of any Mercer inmate.

E. SERVICES

Hudson shall provide Mercer inmates the full range of services which Hudson provides to Hudson inmates in accordance with NJAC 10A:31-13.1 *et seq.* including the services more specifically described in the attached Exhibit A. Hudson further agrees that its performance under the terms of this Agreement shall be in accordance with the Memorandum of Understanding attached hereto as Exhibit B.

F. PROVISION OF NECESSARY INFORMATION

1. Mercer shall provide Hudson with all necessary paperwork to admit and process Mercer inmates, including but not limited to all medical clearance documents and legal commitment orders and inmate history, if available.
2.
 - a. Each party agrees to appoint a liaison on this Agreement and further agrees to provide contact information for their liaison to the other party. The liaison shall be at the rank of the Sergeant or higher.
 - b. In addition, each party shall appoint a medical liaison for notification and discussion of Emergency and specialty clinic treatment requirements of Mercer inmates.
3. Mercer will furnish evidence as to whether any inmate has been registered and enrolled in Medicaid and/or has coverage under the Affordable Care Act.
4. Mercer shall provide any other information or documentation which evidences any insurance or other third party coverage an inmate may have to cover the costs for the medical needs of the inmate.
5. Mercer shall provide any information in its possession which would assist Hudson in the enrollment of an inmate in Medicaid under the Affordable Care Act.

G. ATTORNEY AND FAMILY VISITATION

1. Mercer inmates shall have attorney visitations.
2. Mercer inmates shall also be allowed routine family visits as is provided to Hudson inmates. Hudson shall have no responsibility to arrange or facilitate any transportation needs of any family member of a Mercer inmate wishing to travel to Hudson for visitation.
3. Neither Hudson nor Mercer Counties intend by this Agreement to create any agency relationship other than that which may be specifically required by the Agreement for the limited purpose of the provision of service by Hudson County pursuant to this Agreement.
4. Hudson will use its best efforts and agrees to cooperate with Mercer in allowing for video conferencing of attorney and family visits, however, Mercer will be responsible for any costs incurred at the Mercer County Correctional Facility related to the services.

H. HUDSON PROGRAMS

In addition to the programs detailed in Exhibit A, Hudson currently conducts the following programs at the Hudson County Correctional Center:

1. Inmate Work Details
2. Inpatient Drug Treatment Program (New Jersey State License Pending)
3. American Jobs Center One Stop Facility
4. Medical Assisted Treatment (Vivotrol)

To the extent that the inmates of Mercer meet the eligibility criteria for those programs, the Mercer inmates shall be permitted to enroll in the programs at no additional cost to Mercer.

I. MERCER CORRECTIONS OFFICERS

In recognition of the increased staffing needs of Hudson as the result of this Agreement, Hudson agrees to hire as Hudson rank and file Corrections Officers up to 100 of those rank and file Mercer Officers who may be subject to layoff as the result of this Agreement. Hudson agrees to hire those Mercer officers pursuant to a method comporting with New Jersey Civil Service regulations, whether it be the Rice Bill (N.J.S.A. 40A:14-180) or the Intergovernmental Transfer program (N.J.A.C.4A:4-7.1A), or any other approved program subject to compliance with any approved program administered by the State. Hudson shall extend the offer of employment to former Mercer officers for a period of 90 days from effective date of any Mercer layoff and to accept the laid off officers to be hired by the County under the provisions of the Rice Bill. Officers that choose to seek employment under the provisions of the Rice Bill will not be credited for any prior sick time accrued while employed by Mercer County. However, except for the salary to be paid to any Mercer officer hired by Hudson, all other terms and conditions of employment of the Mercer officers, such as seniority, shall be as a new Corrections Officer. Hudson agrees that any officer hired shall be paid at a salary closest to the salary paid to the officer while employed by Mercer. Should the salary guide employed by Hudson contain salaries different the salary guide employed by Mercer the officer will be paid the salary closest to the salary on the Hudson guide without going below the salary the officer was receiving while at Mercer. The Mercer officer will advance to the next step on the Hudson salary guide on the first day of January next succeeding the date of hire of the officer. Should Hudson opt to use the Intergovernmental Transfer program, Mercer recognizes that any officer accepted for employment by Hudson shall have waived all accumulated seniority for purposes of determining promotional, layoff or demotion rights; vacation leave entitlements; and shift and work assignments, prior to hire by Hudson. The officers who are accepted for employment under the provisions of the IGT program only, by Hudson

will not be required to waive their accrued sick day complement when becoming an officer with Hudson. Should Hudson opt to use the Intergovernmental Transfer program then Mercer shall ensure that the forms attached hereto as Exhibit C have been completed and signed. Mercer understands that Hudson may have to negotiate certain terms and conditions of employment with its rank and file officers at the HCCC regarding the terms and provisions of this section. Hudson agrees to use its best efforts to secure, where required, any approval needed by its collective bargaining representative. Mercer understands that Hudson shall not be deemed to have defaulted in its obligations under the terms of this section should either the New Jersey Public Employment Relations Commission or any arbitrator, who is commissioned pursuant to the terms of the collective bargaining agreement of Hudson that governs Hudson's officers, determine that the provisions of this section violated the collective bargaining agreement or New Jersey law. Mercer further understands that any officer who opts to accept employment with Hudson shall be subject to all County policies as well as the mandatory 10 year period of time of employment with Hudson to be eligible for the payment of health benefits upon retirement.

J. COMPLIANCE WITH LAWS AND REGULATIONS

1. Hudson and Mercer agree that each County will at its own cost and expense promptly comply with, or cause to be complied with, all laws, rules, regulations and other governmental requirements which may be applicable to its performance of the services described in this Agreement.

K. NO PERSONAL LIABILITY

No covenant, condition or agreement contained in this Agreement, will be deemed to be the covenant, condition or agreement of any past, present or future officer, agent or employee of Hudson or Mercer, in his or her individual capacity, and neither the officers, agents or employees of either Hudson or Mercer, nor any official executing this Agreement will be liable personally on this Agreement by reason of the execution hereof by such person or arising out of any transaction or activity relating to this Agreement.

L. LIMITATION OF LIABILITY

In addition to the other rights and remedies of the Parties herein and to the fullest extent permitted by law, each party hereto agrees to be responsible and to assume liability for its own wrongful or negligent acts or omissions, or those of its officers, officials, employees or agents arising from the execution, performance and existence of this agreement. Such obligation of both parties as set forth in this section shall survive the expiration or termination of this Agreement.

Each party shall be liable to the other for its own actions to the extent and pursuant to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., the New Jersey Contractual Liability Act, N.J.S.A. 59:12-1, et seq., and other statutes including but not limited to, Federal Civil Rights Act, 42USCA§1983, 42 USCA §1985 and New Jersey State Civil Rights Acts, N.J.S.A 10:6-1, et seq.

M. INDEMNIFICATION AND INSURANCE

1. Each person will indemnify and hold harmless the other party from any liability or cost incurred by a party including the cost of reasonable attorney fees or Court costs incurred in defense of a claim because of a failure of a party to perform any obligation contained within this Agreement.
2. Each party shall, during the term of this Agreement, maintain all necessary and appropriate insurance policies with respect to the services to be performed pursuant to this Agreement, and will cause the other to be named as an additional insured and will deliver to the other a certificate of such insurance prior to the commencement of services.
3. Mercer shall remain liable and responsible to prosecute and defend any lawsuit or disciplinary matter pending or which may subsequently arise due to events which pre-dated the transfer of the officer to Hudson. Mercer shall remain liable for any payments, whether salary or otherwise, which may be owed to any officer who is successful in any lawsuit or disciplinary appeal.

N. REMEDIES

1. In the event of a controversy or dispute between the parties, every effort will be made to resolve the controversy or dispute. The dispute will be presented to the Boards of Chosen Freeholders for both Hudson and Mercer and good faith attempts at resolution will include discussions between the two Counties or their attorneys, without the intervention of a third party.
2. If the dispute cannot be settled through direct discussions, the Counties agree to endeavor to next attempt to settle the dispute by mediation administered by the State of New Jersey Board of Mediation before resorting to any other remedy at law or equity.

3. In the event that mediation of a dispute was to fail, the parties would be permitted to pursue any remedies available to either of them in law or equity.
4. Any action arising pursuant to the term of this Agreement shall be resolved in Superior Court of the State of New Jersey, however, it shall be at a venue in a neutral County to be determined by the Assignment Judge of the County who initiates the legal action.
5. In the event that either party institutes a legal action to enforce any term of provision of this Agreement, then in addition to any other relief which a party may receive, the prevailing party shall be entitled to an award of reasonable attorney fees and Court costs against the non-prevailing party.

O. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER

In the event that any agreement which is contained in this Agreement is breached by either party and thereafter such breach is waived by the other party, such waiver will be limited to the particular breach so waived and will not constitute a waiver of any other breach hereunder.

P. MISCELLANEOUS

1. Amendment. This Agreement may not be amended or modified for any reason without the express prior written consent of the Counties hereto.
2. Severability. In the event that any provision of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.
3. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall constitute an original document and all of which will constitute one and the same instrument.
4. Entire Agreement. This Agreement sets forth all the promises, covenants, agreements, conditions and undertakings between the Counties hereto with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and undertakings, inducements, or conditions, express or implied, oral or written between the parties hereto.
5. Further Assurances and Corrective Instruments. The authorized representatives of both Hudson and Mercer will execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any

inadequate or incorrect description of the services to be provided or to correct any inconsistent or ambiguous term hereof.

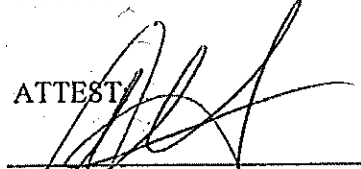
6. Headings. The Article and Section headings in this Agreement are included herein for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.
7. Non-Waiver. It is understood and agreed that nothing which is contained in this Agreement shall be construed as a waiver on the part of the Counties of any right which is not explicitly waived in this Agreement.
8. Force Majeure. In the event either County's performance of any of the provisions of this Agreement become impossible due to Force Majeure, or court order resulting from a challenge to this Agreement, that County will be excused from performing such obligations until such time as the Force Majeure event has ended and all facilities and operations have been repaired and/or restored.
9. Governing Law. The terms of this Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New Jersey.
10. Operations. The parties agree that the performance under the terms of this Agreement shall be consistent with the Operations Plan attached hereto as Exhibit D
11. Authority. By signing below the each signatory represents that this Agreement has been duly approved by the governing body of their respective County and they have the authority to sign this Agreement.

Q. BINDING EFFECT

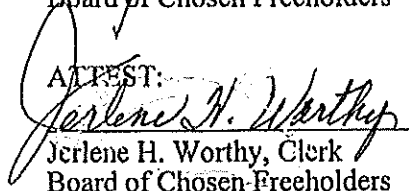
This Agreement shall not be binding upon either party until a resolution has been passed by the respective Freeholders Board of each County approving this Agreement and this Agreement has been signed by the appropriate and authorized officer for each County.

IN WITNESS WHEREOF, the parties have affixed their hands and seals on the date first indicated above.

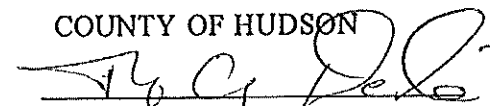
ATTEST:


Alberto G. Santos, Clerk
Board of Chosen Freeholders

ATTEST:


Jerlene H. Worthy, Clerk
Board of Chosen Freeholders

COUNTY OF HUDSON


Thomas A. DeGise
County Executive

COUNTY OF MERCER


Brian M. Hughes
County Executive

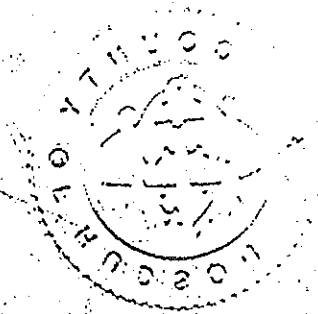


EXHIBIT A



THOMAS A. DeGISE
COUNTY EXECUTIVE

COUNTY OF HUDSON
DEPARTMENT OF CORRECTIONS
& REHABILITATION
30 Hackensack Ave. Kearny, NJ 07032
201-395-5600



RONALD P. EDWARDS
DIRECTOR

Reintegration Program

The Hudson County Reintegration Programs operates as a partnership between the Hudson County Department of Corrections & Rehabilitation (HCDoc&R) and the Department of Family Services (DFS). It targets chronic jail populations-the individuals that program officials refer to as "frequent flyers" because of the regularity with which they cycle through the jail, often due to untreated mental illness or substance abuse disorders.

All participants receive: A "risk and needs assessments"; pre-release case management and transition planning; post-release case management; and community-based services delivered by intensive outpatient and supported housing providers. Those participants with substance abuse issues may also receive in-jail substance abuse treatment in a gender-specific therapeutic community (TC) within HCDoc&R. Social Rehabilitation Therapists (SRTs) from HCDoc&R provide pre-release case management, while DFS Community Service Workers (CSWs) provide post-release case management and monitor the receipt of other community based services.

Pre Release Services

SRTs provide case management and transition planning by meeting with participants weekly throughout their stay at HCDoc&R- with an eye towards preparation for post-release services and transition to the community.

Services provided by HCDoc&R and available: mental health services (psychologist, psychiatrist and mental health therapists); the Test of Adult Basic Education (TABE); educational programming (GED); life skills; literacy courses; Career scope testing; vocational training; and substance abuse treatment. Vocational training classes are offered by Hudson County Community College and include 12-week secretarial training course.

Participants can also access one of two therapeutic communities for men and women pre-release. Integrity House operates the two TCs, which each have the capacity to serve 40 individuals at one time. The Integrity House drug treatment program is certified by the New Jersey Division of Mental Health and Addiction Services (NJDMAS). The programs include includes substance abuse treatment and daily motivational sessions, counseling, music therapy, and recreation. Both men and women receive cognitive behavioral therapy using New Directions curriculum (an evidence based practice).

Post Release Services

Post-release programming is tailored to individual client needs as informed by COMP AS, TABE,

Career scope, HMIS, and the SRTs' clinical judgments based on their interactions with participants. Participants in need of housing are able to access stable substance- and alcohol-free living environments for their initial 90 days post release, these living environments are provided by one of three transitional housing providers: 71 Bostwick Inc. (men only), Most Excellent Way of Living Life Center (women only), or Ernett Transitional Housing (men and women). Participants on OPS are not required to live in one of the transitional housing units, although most do.

Through DFS, contracts with five New Jersey Division of Addiction Certified IOPs: Kaleidoscope, C-Line and Integrity House. Complete mental health, medication, addiction and physical health is provided through IOPs and partnered Federally Qualified Health Care Center (FQHC) North Hudson Community Action Corp.

Day treatment is provided to participants by Jersey City Employment & Training. Day treatment includes basic education, cognitive behavioral treatment, anger management, life skills training, vocational training, and assistance with job searching. The County Reentry Program also has a job developer on staff who works closely with this entity.

Hudson's certified One-Stop Program leverages educational and vocational services for participants through the Hudson County One-Stop Program. The same individual that worked with the client in HCDoC&R on the Career scope is then available in the community to connect individuals with the One-Stop or Division of Vocational Rehabilitation for jobs and training. This individual also encourages the participants that they work with to consider post-secondary school education.

Contracted service providers are in constant communication with each other regarding participants who test positive for drugs, need transportation passes, are late for programming, or miss reporting. In addition, these community-based providers constitute a task force that meets monthly to keep lines of communication open and facilitate a unified treatment approach. Stakeholders report that they perceive this program as a very effective collaboration with lots of communication among stakeholders.

With respect to participants on probation, the CSWs also work with probation countywide to help probation officers make sure offenders are meeting the stipulations of probation and the JCE&T program. As part of this function, CSWs provide reports to probation (i.e., report card) indicating participants' program status (e.g., enrolled, active, and compliant).

The transitional housing units, day treatment providers and substance abuse treatment providers (IOPs) are all required to submit monthly reports to regarding client activities.



THOMAS A. DeGISE
COUNTY EXECUTIVE

COUNTY OF HUDSON
DEPARTMENT OF CORRECTIONS
& REHABILITATION
30 Hackensack Ave. Kearny, NJ 07032
201-395-5600



RONALD P. EDWARDS
DIRECTOR

PROGRAMS/SERVICES	STAFF	SCHEDULE	LOCATION
HCST Basic Computer/Secretarial	Hudson County School of Technology teachers	According to Semester	Computer Room
Barber Services & Education	Mr. T. Muhammad	Mondays & Tuesdays	All Units
CarPoint Health (HIV, Referrals, Counseling)	Alicia Kearney	Twice a week	Intakes
Catholic Charities / Drug Program (Substance Abuse)	Alicia Kearney	Daily	D500
CHESS Program (Instruction, Competitions)	Chess Master. R. Stewart	Twice a week	All Units
Community Re-Integration (Counseling, Release Prep., IDs, Vocational, Housing, Referrals-Federally Funded)	Ms. Hana Elezi in coordination with Family Services Department	Daily	A300 office
Discharge Planning (Release Prep. Referrals, IDs, Birth Cert., SS Verification)	Penal Counselors	As Needed	Intake/Discharge Area
Education Prog. /Bilingual (ABE, GED, Correspondence, Special Ed., Tutoring, Literacy)	Ms. V. Franklin/ Mrs. A. Segarra	Daily	A/DSOO Classroom
Education / Earning a High School Diploma Test Assessment Secondary Completion (TASC)	Hudson County Schools of Technology Staff	Five days a week	Classroom & Proctored testing
Hudson Speaks/HC Rape Crisis (Media Literacy, Education)	Ms. M. Parmagos	Tuesday (Seasonal- Based on Approval.2016)	All female Tiers
Woman Rising / Domestic Violence	Joaneileen Coughlan	Twice a month	All female Tiers
Law Library	Mr. C. Johansen	Daily	Library
Inmate Advocate/PREA	G. Calhoun-Butler	Daily	All Units

Integrity House-Licensed Residential Drug Treatment Program	Mr. Georges Mombrun	Daily	ECHO 500N Male & ECHO 500S Female
---	---------------------	-------	-----------------------------------

Guazabara Insights Life Skills, Conflict Resolution & Self- Empowerment	Mr. Dennis Febo	3 times a week	All Units
Keeping it Real (Each One Teach One, Support Group, Self-Help)	Mrs. M. Hill	Daily	Gym (Females)
Medication Assistant Treatment Programs (MAT)	Ms. H. Elezi	Daily	All Units
Linking to Employment Activities Pre-release (LEAP)	Mr. K. Davis	Daily	Module Classrooms
Jersey City Literacy Program	Vendor	Weekly	Classroom
WellPath - Mental Health (All Counseling, Crisis Intervention, Release Prep., MICA Referrals)	Dr. Talbot	Daily	DIW/All Units
Recreation Program (Athletic Supplies/Games, Bookmobile, Writing, Newsletter)	Mr. D. Glover	Daily	
Religious Services/Volunteer (Counseling, Studies, Interfaith Services, Family Day Events)	Rev. W. Toro Paid staff Clergy include: Eman, Rabi, Ministers, Deacon. Additionally 43 Chaplains assist voluntarily	Daily	All Units
US Dept. of Veterans Affairs (Jail Diversion, Outreach, Aftercare)	Mr. M. Correale	As needed	All Units

EXHIBIT B

MEMORANDUM OF UNDERSTANDING

In the housing of Mercer County inmates by Hudson County the following protocols will be employed:

1. Hudson will produce all Mercer inmates for Court transportation, on a daily basis, having the inmates dressed and ready for pick up by 6 a.m.
2. Hudson will provide inmates with bag lunches for all Court transportation.
3. Mercer and Hudson will act in good faith to deal with any other operational issues, which arise from time to time during the term of the Agreement, to ensure that the intent and purposes of the Agreement are satisfied and the needs of the respective Counties are addressed.

EXHIBIT C

A Guide

to the Intergovernmental Transfer Process for Appointing Authorities



Our goal is to process your requests as quickly as possible!

Please refer to this guide to assist with the prompt submittal of all required paperwork to the

Division of Classification and Personnel Management

For general information and forms - visit our web site:

www.state.nj.us/csc

May 2012



www.state.nj.us/csc

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Intergovernmental Transfer Program (ITP)

The Intergovernmental Transfer Program provides the opportunity for eligible New Jersey state and local government employees with permanent civil service status to transfer between state and local employment jurisdictions while maintaining their permanent status. This program promotes more efficient public service by allowing civil service jurisdictions to share talented and experienced individuals with other governmental sectors. All parties involved in the transfer (the transferring employee, the sending jurisdiction, the receiving jurisdiction, and the New Jersey Civil Service Commission) must agree to the transfer for it to be completed. A transfer is not valid until approved by the Civil Service Commission.

State and local agencies can recruit and hire experienced employees with permanent civil service status, thereby reducing the time and cost of recruitment, testing and eliminating the need for up-front training. Agencies can exchange the expertise of experienced employees and can fill positions more rapidly with a transfer than with conventional recruitment methods. Employees with permanent civil service status desiring to work for another jurisdiction, whether for personal or professional reasons, can transfer without a break in service.

Individuals facing layoffs can transfer into comparable titles in other jurisdictions within 1 year of the effective date of layoff. The impact of reductions-in-force can be minimized when such transfers are made as a pre-layoff action.

Please note that CAMPS transactions for any Intergovernmental Transfer cannot be done on-line using the CAMPS system. Authorized Signatures are required (therefore, these forms must be submitted as part of the Intergovernmental Transfer Package)

For further information, contact:
N.J. Civil Service Commission
Division of Classification and Personnel Management
Intergovernmental Services Unit
PO Box 313
Trenton, N.J. 08625-0313
tel. (609) 633-7773 fax. (609) 777-0905
www.state.nj.us/csc

What is the ITP?

What types

of transfers are possible?

	EXAMPLES
Local to Local jurisdiction	(The City of Hoboken to Lodi Borough) (Ocean County to the City of Bayonne)
Local to State agency	(Mercer County to NJ Department of Treasury)
State to Local jurisdiction	(NJ Department of Transportation to Ewing Township)
State to State agency is NOT eligible	State employees may still transfer to another State Department, but not under this Program. For such transfers, employees apply directly to the State Department that has the job opening, and the transfer process is handled by the personnel staff.

Since all transfer actions are processed and approved by the New Jersey Civil Service Commission, Intergovernmental Services Unit, please begin by contacting our office at:

609-633-7773

Consultant staff members are assigned to specific local and county governments and State agencies so that customers will get to know who is responsible for their jurisdiction. Our staff members are specially trained to answer questions and facilitate the transfer process.

Please **DO NOT** send Intergovernmental transfer related forms directly to your State or Local Human Resource Management Teams. This will cause delay and confusion. All transfer actions begin and end with the Intergovernmental Services Unit.

How do I

initiate a
transfer
request?

How do I

post a job opening on the Internet?

***Jurisdictions
may recruit
employees
directly***

**so that job postings
are not always
necessary, but if you
need to advertise your
job opening, please
read on.**

**Please DO NOT send
ITP Vacancy
Requests to
Customer Service
Teams.**

First, check with your Human Resource Consultant to determine if there is an outstanding Special Reemployment List (SRL) for the requested job title in your jurisdiction. If there is an SRL, you must first canvass the list to find out if any candidates on the list are interested in the job opening. The SRL must be cleared before transferring anyone into the job title.

Next, check the residency code for your jurisdiction and consider the appropriate scope of eligibility. Must the vacancy be filled only by local residence, or can county or state residents be considered as well? This information must be posted with your job opening. If you need to widen the scope of eligibility for the requested job title beyond your residency code, you must waive your residency ordinance or resolution.

Then, complete an Appointing Authority Position Vacancy Request Form (DPF-722) included at the back of this guide. If you have questions pertaining to the form, please call the Intergovernmental Services Unit for assistance. Send or Fax this form to:

N.J. Civil Service Commission
Division of Classification and Personnel Management
Intergovernmental Services Unit
PO Box 313

Trenton, N.J. 08625-0313

tel. (609) 292-5002 Pamela Knowles

tel. (609) 984-7313 Keith Appleby

fax. (609) 777-0905


What is my role

in the transfer process?

The answer to this question determines what forms you must submit to process a transfer.

You are either the Receiving Agency or the Sending Agency.

All parties are responsible for ensuring that the Intergovernmental Services Unit receives completed paperwork, at least 7 days prior to the Effective Date of the transfer, as specified.



RECEIVING AGENCY/

JURISDICTION is the state or local jurisdiction that announces a transfer job opening or hires the transferring employee. The Receiving Jurisdiction gathers all transfer materials, including those of the Sending Jurisdiction, and sends the entire, completed transfer package to the Intergovernmental Services Unit, at least 7 days prior to the effective date of the Intergovernmental Transfer. This ensures that transferring employees will not incur a break in service.

SENDING AGENCY/JURISDICTION

is the current state or local employer that releases an employee for transfer to a Receiving Jurisdiction. The Sending Jurisdiction forwards its transfer forms directly to the Receiving Jurisdiction, not to the CSC.

P.L. 2007, ch. 51: 11A:2-28 Law enforcement officers, certain, participation in intergovernmental transfer program.

a. The Chair/Chief Executive Officer of the Civil Service Commission shall provide, by regulation, for intergovernmental transfer by law enforcement officers, including county sheriff and corrections officers, as part of the commission's intergovernmental transfer program. These law enforcement officers, county sheriff and corrections officers shall be granted all privileges under the intergovernmental transfer program, including the option to waive all accumulated sick leave and seniority rights.

b. The waiver of accumulated sick leave and seniority rights shall require the consent in writing of the receiving jurisdiction, the affected employee, and the Civil Service Commission.

c. The sending jurisdiction shall not pay supplemental compensation for accumulated sick leave to any law enforcement officer, county sheriff or corrections officer, approved for an intergovernmental transfer and shall certify, to the receiving jurisdiction and the Civil Service Commission, that no supplemental compensation was paid.

are
required?

What forms

Forms are required from both the Receiving and Sending Jurisdictions.

The forms you will need depend on whether you are sending or receiving an employee, and whether your jurisdiction is in state or local government.

In all actions, one jurisdiction is separating an employee, and the other is hiring that employee as a transferee. Therefore, the forms submitted from the Sending and Receiving Jurisdictions are not the same.

FORMS

RECEIVING - AGENCIES - State & Local

Appointing Authority
Position Vacancy
Request
(DPP-722)

- This form is used by both local and state jurisdictions to post vacancies to the ITP website and to verify the existence of job vacancy for intergovernmental transfer. Please complete the section "Request Type" to indicate Vacancy purpose.

Request for
Camps New Hire &
Intergovernmental
Transfer Form
(DPP-743)

- This form is used only by local jurisdictions to hire an employee as a transfer.

Transaction Code is IT-Intergovernmental Transfer with Appt. Type of Regular Appointment from a Commission or Commissioner decision (RCP).

Please complete all required fields indicated by a(*).

CAMPS transactions for any Intergovernmental Transfer cannot be processed on-line. Authorized Signatures are required when submitting these forms.

SENDING - AGENCIES - State & Local

CAMPS
Leave, Separation &
Transfer Form
(DPP-742)

- This form is to be used by local agencies to terminate an employee because of an Intergovernmental transfer.

Transaction Code is 06-Separation with a Request Reason Code of 026-Intergovernmental Transfer.

Please complete all required fields indicated by a(*).

CAMPS transactions for any Intergovernmental Transfer cannot be processed on-line. Authorized Signatures are required when submitting these forms.

ALL - PARTIES

Intergovernmental
Transfer Agreement
(DPP-721)

- This form documents the consent of all parties to the conditions of transfer and is signed by local and state Receiving and Sending jurisdictions, and the transferring employee.

The Civil Service Commission also signs this form to give final approval to the transfer. If employment begins without approval, then

the Civil Service Commission will record a separation of the employee from permanent status at the sending jurisdiction and record a new hire transaction with a provisional appointment pending open competitive procedures (PAOC) at the receiving jurisdiction.

To gather all required signatures on this one document, it may be necessary to fax the *Intergovernmental Transfer Agreement* to the other parties. This form documents the consent of all parties to the conditions of transfer and is signed by the Receiving and Sending authorized authorities, and the transferring employee. When all required forms are completed and received by the Intergovernmental Services Unit, a determination will be sent from the Civil Service Commission to all parties on agreement form. This determination will indicate if your request was approved or denied.

To gather all required signatures on this one document, it may be necessary to fax the *Intergovernmental Transfer Agreement* to the other parties.

(more information on this form on next page)

Intergovernmental Transfer Agreement

(DPF -721) This form is used by:

Receiving Jurisdictions

(State and Local) to indicate the conditions of transfer

In Receiving Jurisdiction block, please complete the points of agreement, as applicable, and have the Appointing Authority* sign the completed form.

Sending Jurisdictions

(State and Local) to release an employee for transfer

In the Sending Jurisdiction Block, please enter the required information. The Appointing Authority* must sign this agreement, indicating release of the employees.

Employee

(State or Local) to agree to conditions of transfer offered by the Receiving jurisdiction

In Transferee block, the employee signs. Additionally, a supplemental Law Enforcement waiver request form may be required.

Civil Service Commission

In the CSC block, an authorization and signature are required to complete the transfer process.

* The Appointing Authority is the individual with signature authority. Failure to obtain correct signature may cause delay in processing the application.

Questions and Answers

What about existing lists?

To transfer an employee under the Intergovernmental Transfer Program, the only list you must clear is the Special Reemployment List (SRL). Please determine if there is an SRL for your jurisdiction for the job title you want to assign to the transferring employee. If there is, you must canvass the list to determine whether any candidate on the list is interested, before the transfer may occur.

What effective date do I use?

The Effective Date of the transfer must be coordinated between the Sending and Receiving Jurisdictions to ensure that the employee does not have a break in service. To do this, the date of termination set by the Sending Jurisdiction must be on the day before the date of hire requested by the Receiving Jurisdiction.

The Effective Date is the official date of record on which the transfer action occurs. The Intergovernmental Services Unit must receive completed paperwork at LEAST 7 DAYS BEFORE the effective date for all transfers.

What if the employee's job title is not the same in the local and state classification systems?

If the employee's permanent job title is not an exact match with a job title in the Receiving Jurisdiction, the Civil Service Commission may approve a different but comparable job title. A comparable job title is substantially similar to the employee's permanent job title in duties, skills, level, and requirements as determined by the Civil Service Commission. If a comparable job title is not an option, the transfer cannot be accomplished. Before initiating a transfer in the case, please contact the Intergovernmental Services Unit for assistance. Please note that a DPF 1C Qualifying Examination Application for eligibility review is required as part of the transfer package.

What if the transferring employee is on leave?

Local Employees must be returned from leave for record-keeping purposes and then be separated on the record.

State Employees are not returned from leave; they are separated in PMIS (Code 06). Then follow transfer procedures as usual.

What do I submit to process a Local to Local transfer?

Local Receiving Jurisdiction submits to the Intergovernmental Services Unit:

DPF-722 Appointing Authority Position Vacancy Request
Appointing Authority verification of vacant position for Intergovernmental Transfer recording.

The Receiving Jurisdiction will be responsible for obtaining and submitting CAMPS DPF-742 and the Signed Intergovernmental Transfer Agreement as part of the package.

DPF-721 Intergovernmental Transfer Agreement
For Intergovernmental Transfer approval from the Civil Service Commission. Consent and signature of all parties.

DPF-743 CAMPS New Hire and Intergovernmental Transfer Form

This form is used only by local jurisdiction to hire an employee as a transfer. Transaction Code is IT-Intergovernmental Transfer with an Appointment Type of RCP is required. Appointing Authorities must complete all required fields indicated by a (*). CAMPS transactions for Intergovernmental Transfers cannot be done on-line. Authorized Signatures are required when submitting these forms.

DPF-742 CAMPS Leave, Separation and Transfer Form
Form must be completed as required by the Sending Jurisdiction.

DPF-721 Intergovernmental Transfer Agreement
Consent and signature of all parties. For Intergovernmental Transfer approval from the Civil Service Commission.

DPF-742 CAMPS Leave, Separation and Transfer Form
This form is used only by local jurisdictions to terminate an employee because of an Intergovernmental transfer. Transaction Code is 06-Separation with a Request Reason Code of 026-Intergovernmental Transfer. Appointing Authorities must complete all required fields indicated by a (*). CAMPS transactions for any Intergovernmental Transfer cannot be done on-line. Authorized Signatures are required when submitting these forms.

Local Sending Jurisdiction submits to the Receiving Jurisdiction:

What do I submit to process a Local to State transfer?

State Receiving
Jurisdiction submits
to the Intergovernmental
Services Unit:

DPF-722 Appointing Authority Position Vacancy
Appointing Authority verification of vacant position
for Intergovernmental Transfer recording.

DPF-721 Intergovernmental Transfer Agreement
For Intergovernmental Transfer approval from the
Civil Service Commission. *Consent and signature of
all parties.*

DPF-742 CAMPS Leave, Separation and Transfer
Form

Form must be completed as required by the
Sending jurisdiction. Receiving jurisdiction will be
responsible for obtaining and submitting CAMPS

DPF-742 as part of the Transfer Package.

Special Notice: State Appointing Authorities are
required to enter New Hire Code (02) into PMIS.

Local Sending
Jurisdiction submits
to the Receiving
Jurisdiction:

DPF-721 Intergovernmental Transfer
Agreement

For Intergovernmental Transfer approval from the
Civil Service Commission. *Consent and signature
of all parties.*

DPF-742 CAMPS Leave, Separation and
Transfer Form

This form is used only by local jurisdiction
to terminate an employee because of an
intergovernmental transfer. Transaction Code
is 06-Separation with a Request Reason Code
of 026-Intergovernmental Transfer. Appointing
Authorities must complete all required fields
indicated by a (*). CAMPS transactions for any
Intergovernmental Transfer cannot be done
online. Authorized Signatures are required when
submitting these forms.

What do I submit

to process a State to Local transfer?

**Local Receiving
Jurisdiction
submits to the
Intergovernmental
Services Unit:**

**DPF-722 Appointing Authority Position
Vacancy:**

Appointing Authority verification of vacant position
for Intergovernmental Transfer recording.

**DPF-721 Intergovernmental Transfer
Agreement:**

For Intergovernmental Transfer approval from the
Civil Service Commission. *Consent and signature
of all parties.*

**DPF-743 CAMPS New Hire and
Intergovernmental Transfer Form:**

This form is used only by local jurisdictions to hire
an employee as a transfer. Transaction Code is IT
(Intergovernmental Transfer) with an Appointment
Type of RCP (Regular Appointment Commission
Permanent) is required. Appointing Authorities
must complete all required fields indicated by a
(*). CAMPS transactions for Intergovernmental
Transfers cannot be done on-line. Authorized
Signatures are required when submitting these
forms.

**State Sending
Jurisdiction:**

**DPF-721 Intergovernmental Transfer
Agreement:** For Intergovernmental Transfer
approval from the Civil Service Commission.
Consent and signature of all parties

ENTER INTO PMIS:

State Appointing Authorities must input
SEPARATED Code (06) into PMIS.

Where do I send the complete transfer request package?

**ALL transfer
packages
and related
materials
should be
mailed
DIRECTLY to:**

**Determination
Notice:**

**Checklist for
Appointing
Authorities:**

New Jersey Civil Service Commission
Division of Classification and Personnel Management
Intergovernmental Services Unit
P.O. Box 313
Trenton, NJ 08625-0313
Or, faxed to:
609-777-0905

When all required forms are completed and received by the Intergovernmental Services Unit, a determination will be sent from the Civil Service Commission to all parties on agreement form. This determination will indicate if your request was approved or denied.

To assist in the transfer process, please refer to the Checklist for Appointing Authorities for a quick summary of the process and the forms required for each transaction.

INTERGOVERNMENTAL TRANSFER PROCESS CHECKLIST

*Ensure that your **APPOINTING AUTHORITY** signs all completed forms*

LOCAL JURISDICTION PROCESSING

ARE YOU A LOCAL RECEIVING AGENCY?

If Yes, compile *all* the transfer documents, including those utilized by the Sending Jurisdiction, and send the entire package to Statewide Initiatives. This package should contain the following items:

- ☐ DPF-722 APPOINTING AUTHORITY POSITION VACANCY REQUEST
- ☐ DPF-721* INTERGOVERNMENTAL TRANSFER AGREEMENT signed by all parties
- ☐ DPF-742 CAMPS Leave, Separation and Transfer Form (submitted to you by Sending Jurisdiction)
- ☐ DPF-743 CAMPS New Hire and Intergovernmental Transfer Form indicating the Transaction Code 06-Intergovernmental Transfer with Appt. Type of RCP

ARE YOU A LOCAL SENDING JURISDICTION?

If yes send the following items to the Receiving Jurisdiction:

- ☐ DPF-721* INTERGOVERNMENTAL TRANSFER AGREEMENT
- ☐ DPF-742 CAMPS Leave, Separation and Transfer Form indicating the Transaction Code is 06-Separation with a Request Reason Code of 026-Intergovernmental Transfer.

STATE JURISDICTION PROCESSING

ARE YOU A STATE RECEIVING JURISDICTION?

If yes, compile *all* the transfer documents, including those utilized by the Sending Jurisdiction, and send the entire transfer package to Statewide Initiatives. This package should contain the following items:

- ☐ DPF-722 APPOINTING AUTHORITY POSITION VACANCY REQUEST
- ☐ DPF-721* INTERGOVERNMENTAL TRANSFER AGREEMENT signed by all parties
- ☐ DPF-742 Leaves, Separations and Transfers Form (submitted to you by Sending Agency)

Reminder: State Appointing Authorities are required to enter New Hire Code (02) into PMIS.

ARE YOU A STATE SENDING JURISDICTION?

If yes, send the following items to the Receiving Jurisdiction:

- ☐ DPF-721* INTERGOVERNMENTAL TRANSFER AGREEMENT

Reminder: State Appointing Authorities must input SEPARATED Code (06) into PMIS.

FAX OR MAIL ALL MATERIALS TO
NEW JERSEY Civil Service Commission
Division of Classification and Personnel Management --
Intergovernmental Services Unit
PO BOX 313 TRENTON, NJ 08625-0313
FAX: 609-777-0905

Call our office for Consultant Services:
 Our staff members are specially trained to answer questions and facilitate the transfer process.
 Pamela Knowles 609-292-5002
 Keith Appleby 609-984-7313
 * must use DPF 721 form revised 05/30/12

Did You Know!

The New Jersey Civil Service Commission via the Intergovernmental Services Unit in the Division of Classification and Personnel Management offers other options that may be of interest to you. Please contact us and request a brochure if you desire more information on the following:

- The Intergovernmental Services Unit also has administrative authority to process and approve applicant request to be placed on the Statewide Eligible's List, a law, also known as the "Rice Bill." The Law permits trained Law Enforcement Officers in non-civil service jurisdictions, and Federal Police and Firefighters that have been affected by a layoff, with the opportunity to be hired by a civil service jurisdiction. Approved applicants are placed on the Rice Bill Eligible List for possible hire in accordance with N.J.S.A. 40A:14-180 et seq. & N.J.S.A. 40A:14-9.9 et seq. respectively. The Rice Bill Law permits a 4-year placement limitation for Federal Fire Firefighters and a 5-year placement limitation for law enforcement officers.
- The Police Assistant Program is a way for local jurisdictions to recruit individuals interested in law enforcement and develop staffing plans that increase the number of long-term residents and develop a diverse Police force representative of the community it serves. Upon completion of a structured on the job-training program, candidates will be afforded the opportunity for promotion to an entry-level Police Officer position.

RECEIVING JURISDICTION AGREEMENT (TO BE COMPLETED ONLY BY THE APPOINTING AUTHORITY)

1. This intergovernmental transfer agreement in addition to all documents required to effectuate the transfer must be received by CSC at least seven (7) days prior to the effective date of the transfer.
2. Employees shall retain all accumulated seniority rights and sick time, except for those transferring in the title of Firefighter. A Waiver of such rights shall be afforded to those in Law Enforcement titles and must be agreed upon with written consent from the receiving authority, the affected employee, and the Civil Service Commission. A signed Law Enforcement Waiver ☐ is ☐ is not attached.
3. Vacation leave balances, administrative, personal or other types of leave will not be carried forward by the transferee. The transferee will be paid, on a pro-rated basis, for vacation time earned prior to the transfer.
4. Continuation of payments into the New Jersey Department of the Treasury, Division of Pensions and Benefits Retirement System, without interruption, is mandatory.
5. Is the transferee transferring to a title that has been designated to the Police and Fire Retirement System? ☐ YES ☐ NO
6. If you answered yes above, has it been verified that the transferee meets the eligibility requirements set forth in N.J.S.A 40A:14-127 for enrollment into the Police and Fire Retirement System? ☐ YES ☐ NO
7. The transferee will receive a health benefits package pursuant to the jurisdiction policy.
8. The affected union has been informed of this transfer by the receiving jurisdiction.
9. The requested title is: _____; to be compensated at \$ _____ annually.
10. If there is an existing residency ordinance, a waiver of residency requirements has been approved for this transferee.

CONTACT INFORMATION (Please Print):

ADDRESS _____

CITY / STATE / ZIP _____

TELEPHONE _____

EMAIL ADDRESS _____

FAX _____

This transfer has been ☐ Approved Proposed Effective Date: _____

Appointing Authority (Authorized Name and Signature of Authority as listed with CSC):

Authorized AA Name _____

Title _____

Signature of Approval _____

Date _____

NEW JERSEY CIVIL SERVICE COMMISSION AUTHORIZATION OF INTERGOVERNMENTAL TRANSFER

1. This individual, having met all the conditions for an Intergovernmental Transfer, is granted a change to the following:
title: _____ title code: _____ from the title code of: _____
2. A Law Enforcement Waiver for the following is attached: ☐ Waiver of all accumulated seniority ☐ Waiver of all accrued sick leave
3. The appointment type for this Intergovernmental Transfer is: _____
4. A Working Test Period (WTP): ☐ WILL ☐ WILL NOT be necessary.
5. Conditions/Comments: _____

This transfer has been ☐ APPROVED ☐ DISAPPROVED

CSC Authorized Signature _____

Title _____

Date _____

New Jersey Civil Service Commission
Division of Classification and Personnel Management - Intergovernmental Services Unit
P.O. Box 313, Trenton, New Jersey 08625-0313

INTERGOVERNMENTAL TRANSFER WAIVER OF RIGHTS

Law Enforcement Waiver Requests
(Request to Waive All Accumulated Seniority and/or Sick Leave)

I _____ hereby request to waive the following rights:
Transferee Name

SENIORITY WAIVER

Employees seeking intergovernmental transfers in Law Enforcement titles shall be granted the option to waive retention of rights to all accumulated seniority. By authorized signature of transferee below, a waiver has been requested:

☐ I request to waive my rights to all accumulated seniority and authorize the Civil Service Commission to facilitate an intergovernmental transfer as specified in the attached Intergovernmental Transfer Agreement (DPF-721).

Transferee's Signature: _____ Date: _____

SICK LEAVE WAIVER

Employees seeking intergovernmental transfers in Law Enforcement titles shall be granted the option to waive retention of rights to all accrued sick leave. By authorized signature of transferee below, a waiver has been requested:

☐ I request to waive my rights to all accrued sick leave and authorize the Civil Service Commission to facilitate an intergovernmental transfer as specified in the attached Intergovernmental Transfer Agreement (DPF-721). By signing this waiver, I further acknowledge that no supplemental compensation for accrued sick leave has or will be paid to me.

Transferee's Signature: _____ Date: _____

RECEIVING AGENCY ACKNOWLEDGEMENT OF WAIVER

As the Receiving Agency's authorized signing authority, I _____ by signing below, acknowledge such waiver signed by the above named transferee and certify that accumulated seniority and/or sick leave will not be retained after effectuation of the intergovernmental transfer.

Appointing Authority Signature: _____ Date: _____

**NEW JERSEY CIVIL SERVICE COMMISSION
AUTHORIZATION OF SENIORITY AND/OR SICK LEAVE WAIVER**

A Seniority and/or Sick Leave Waiver have been signed by the transferee. The Receiving Agency's authorized signing authority has acknowledged such waiver and certified the employee's accumulated seniority and sick leave will not be retained after effectuation of the intergovernmental transfer. The Sending Agency's authorized signing authority has certified that no supplemental compensation has or will be paid to the employee.

CSC Authorized Signature

Title

Date

APPOINTING AUTHORITY POSITION VACANCY REQUEST NEW JERSEY CIVIL SERVICE COMMISSION – DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT- INTERGOVERNMENTAL SERVICES UNIT		REQUEST TYPE: <input type="checkbox"/> POST TO ITP WEB SITE <input type="checkbox"/> FILE WITH TRANSFER	
JURISDICTION:		JURISDICTION CODE:	
CONTACT PERSON:		ADDRESS:	
TELEPHONE: ()		EMAIL ADDRESS:	
FAX: ()			
TITLE OF POSITION/VACANCY:		SALARY: \$	
POSTING EXPIRATION DATE: <small>(Minimum Posting of 30 days / Maximum Posting 90 days)</small>		OPEN TO RESIDENTS OF: MUNICIPALITY COUNTY STATE	
POSITION SCHEDULE: FULL-TIME PART-TIME: HOURS PER WEEK		NUMBER OF VACANCIES:	
POSITION LOCATION (DEPARTMENT / AGENCY):			
TITLE / JOB SPECIFICATION #: <small>(SPECIFY UNCLASSIFIED IF APPLICABLE)</small>		ENTER REQUIRED LICENSE(S) / CERTIFICATIONS:	
GENERAL DESCRIPTION / POSITION REQUIREMENTS: <small>Please provide skill set(s) – Must be within job specification for title. (use additional pages if needed)</small>			
EDUCATION / EXPERIENCE:			
FILING INSTRUCTIONS: <small>(POSITION/POSTING # AND/OR COVER LETTER REQUIREMENTS)</small>		ALTERNATE FILING INSTRUCTIONS: <small>(ELECTRONIC FILING AND FAXING OPTIONS)</small>	
SEND RESUMES TO:		Same As Above	
Name/Title/Department: _____			
Address: _____			
City/State/Zip: _____			
Telephone Contact #: _____			
APPOINTING AUTHORITY APPROVAL (Authorized Signature of Authority as listed with CSC):			
SIGNATURE: _____			
TITLE _____ DATE _____			
PLEASE NOTE THAT A FOLLOW-UP CALL OR EMAIL WILL BE GENERATED ONCE WEB POSTING HAS EXPIRED!			
MAIL: DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT-INTERGOVERNMENTAL SERVICES UNIT P.O. BOX 313, TRENTON, NEW JERSEY 08625-0313 TEL: 609-633-7773 FAX: 609-777-0905			
DPF-722 Revised 05-30-12			

NEW JERSEY CIVIL SERVICE COMMISSION	
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Leaves, Separations and Transfers Form

Transaction Codes: 04, 05, 06, 09, 10, 11

*EMPLOYEE ID

*JOB NO.

*EFFECTIVE DATE

MM/DD/YYYY

EMPLOYEE'S CURRENT INFORMATION:

*First Name

MI

*Last Name

Suffix

*Jurisdiction Code

*Jurisdiction Name

*Jurisdiction Department

*Title Code

*Title Name

LEAVE / SEPARATION / TRANSFER ACTION

*Transaction Code

*Request Reason Code

Receiving Jurisdiction Code

Receiving Department

Start Date

End Date

Half Day Code

Extended Leave Y/N

With Pay Y/N

Aggregate No. of Leave Days

Resigned Perm. Status Y/N

Signature Sent Y/N

Comments

AUTHORIZING SIGNATURES:

Employee: Required for voluntary transfers.

SIGNATURE OF EMPLOYEE: _____ DATE: _____

The Appointing Authority takes responsibility for informing the employee and accepts responsibility for the accuracy of this request. Signature of Appointing Authority is required if submitted by US mail, courier or facsimile. Signature is not required if form is submitted electronically.

Appointing Authority: I certify that the action requested conforms to Civil Service Commission Rules and Regulations. This request has been made in accordance with legal requirements.

SIGNATURE OF AA: _____ DATE: _____ TITLE: _____

FOR APPOINTING AUTHORITY USE: X _____ X _____

SUBMIT FORM* TO: CAMPS Form 3000 (State, NJ) or the NJ Civil Service Commission; CAMPS Forms, PO Box 364 Trenton, NJ, 08625-0364

NEW JERSEY CIVIL SERVICE COMMISSION
--

New Hire and Intergovernmental Transfer Form

Transaction Codes: 02, IT

*JURISDICTION CODE

*EFFECTIVE DATE

MM/DD/YYYY

EMPLOYEE INFORMATION:

*Sec. Soc. Number

*First Name

MI

*Last Name

Suffix

*Home Address

*Street1

Street2

*City

*ST

*Zip

Employee ID

Job No.

CAMPS Generated Codes - Enter only if known

Email Address

*Date of Birth

*Gender

*EEO Ethnic Code

Educ Code

*US Citizen Y/N

Immigration Number

Driver's License Number

State of Issue

*Residency Code

Comments

APPOINTMENT INFORMATION:

* Transaction Code

*Appt. Type

*Title Code

*Title Name

*Jurisdiction Name

*Jurisdiction Department

License Code

*Comp. Method

Part Time %

*Essential Emp. Y/N

*Salary Range Minimum

*Salary Range Maximum

*Base Salary

Extra Salary

Max. Appt. Duration

Interim Replaced Emp. ID

IA Thru Date

* Work Week Hours

WTP Start Date

Certification No.

Exam Symbol No.

Special Legislation Citation

Canvassed List Y/N

Comments

AUTHORIZING SIGNATURES:

The Appointing Authority takes responsibility for informing the employee and accepts responsibility for the accuracy of this request.

Appointing Authority: I certify that the action requested conforms to Civil Service Commission Rules and Regulations. This request has been made in accordance with legal requirements.

SIGNATURE OF AA: _____ DATE: _____ TITLE: _____

FOR APPOINTING AUTHORITY USE: S _____ S _____

SUBMIT TO: NJ Civil Service Commission; CAMPS Forms, PO Box 354, Trenton, NJ, 08625-0354

DPF-743 CAMPS Revised 09-10-03

EXHIBIT D

Operations Plan

This Agreement is entered into between the County of Mercer and the County of Hudson, who hereby agree as follows:

Purpose of Agreement and Security Provided

Mercer County and the Hudson County establish this Agreement that allows the County of Mercer to house Mercer County inmates at the Hudson County Corrections and Rehabilitation Center.

The population, hereinafter referred to as "inmates," will include individuals charged with State and Local offenses, and detained while awaiting trial, and individuals who have been sentenced.

Hudson County shall accept and provide for the secure custody, safekeeping, housing, subsistence and care of Mercer County inmates in accordance with all federal, state and local laws, standards, regulations, policies and court orders applicable to the operation of the facility. Inmates shall also be housed in a manner that is consistent with New Jersey law, the American Corrections Association and National Commission on Correctional Healthcare standards.

Hudson County ensures the secure custody, care, and safekeeping of Mercer County inmates. Accordingly, all housing or work assignments, and recreation or other activities of Mercer County inmates are permitted only within secure areas of the building or within the secure external recreational/exercise areas.

At all times, the Mercer County Warden or his designee shall have access to the facility and to all Mercer County inmates housed there, all inmate grievances, incident reports, investigative reports, disciplinary reports, video footage of all incidents involving Mercer inmates, medical records, any other record or documentation generated as a result of any incident involving Mercer inmates, and to all records pertaining to this Agreement, including financial records, for a period going 3 years from the date of request by the Mercer County.

Assignment and Outsourcing of Jail Operations

Overall management and operation of the facility housing Mercer County inmates may not be contracted out without the prior express written consent of Mercer County.

Medical Services

Hudson County shall provide Mercer County inmates with the full range of medical care inside the facility. The level of care inside the facility should be the same as that provided to Hudson County inmates. Hudson County is financially responsible for all medical care provided inside the facility to Mercer County inmates. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over the counter prescriptions and, any prescription medications routinely stocked by the facility which are provided to Hudson County inmates. The cost of all of the above medical care is covered by the Mercer per diem rate. However, if dialysis is provided within the facility, Mercer

County will bear the cost. Mercer County is financially responsible for all medical care provided outside the facility to Mercer inmates. Mercer County must be billed directly by the medical care provider. Hudson County is required to immediately forward all medical claims for Mercer inmates to Mercer County for processing. All outside medical care provided to Mercer inmates must be pre-approved by Mercer County. In the event of an emergency, Hudson County shall proceed immediately with necessary medical treatment. In such an event, Hudson County shall notify Mercer County immediately regarding the nature of the Mercer County inmates illness or injury as well as the types of treatment provided.

Medical care for Mercer County inmates shall be provided by Hudson County in accordance with the National Commission on Correctional Health Care Standards.

Hudson County shall immediately notify Mercer County of any cases of suspected or active TB or any other highly communicable disease such as Severe Acute Respiratory Syndrome (SARS), Avian Flu, (MRSA), Chicken Pox, etc., which might affect scheduled transports or productions so that protective measures can be taken by the Mercer.

When a Mercer County inmate is being transferred and/or released from the facility, they will be provided with 14 days of prescription medication which will be dispensed from the facility.

Mercer County inmates may be charged a medical co-payment. Mercer County is not responsible for medical co-payments and cannot be billed for these costs even for indigent Mercer County inmates.

Receiving and Discharge of Mercer Inmates

Hudson County agrees to accept Mercer inmates only upon presentation by a law enforcement officer of Mercer County with proper agency credentials.

Hudson County shall not relocate a Mercer County inmate from one facility under its control to another facility not described in this Agreement without permission of Mercer County.

Hudson County agrees to release Mercer County inmates only to Mercer County Correctional law enforcement officers.

Transportation Services

Medical Services, to provide transportation and security escort services for Mercer County inmates housed at Hudson County to and from a medical facility for outpatient care, and transportation and stationary guard services for Mercer inmates admitted to a medical facility.

These services should be performed by at least two armed qualified law enforcement correctional personnel.

The Hudson County agrees to augment this security escort if requested by Mercer County to enhance specific requirement for security, prisoner monitoring, visitation, and contraband control. Upon arrival at the courthouse, the Hudson County transportation and escort team will turn Mercer inmates over to a Mercer County Corrections, or Sheriff's Officers only upon presentation of proper law enforcement credentials. Each inmate will be restrained in handcuffs, waist chains, and leg irons during transportation.

Special Notifications

Hudson County shall notify Mercer County of any activity by a Mercer County inmate which would likely result in litigation or alleged criminal activity.

Hudson County shall immediately notify Mercer County of an escape of a Mercer County inmate. Hudson County shall use all reasonable means to apprehend the escaped Mercer County inmate and all reasonable costs in connection therewith shall be borne by Hudson County. Mercer County shall have primary responsibility and authority to direct the pursuit and capture of such escaped Mercer inmates. Additionally, Hudson County shall notify Mercer County as soon as possible when a Mercer detainee is involved in an attempted escape or conspiracy to escape from the facility.

In the event of the death or assault of a Mercer detainee, Hudson County shall immediately notify Mercer County.

Prisoner Rape Elimination Act (PREA)

The detention facility is requested to comply and become certified with the Prisoner Rape Elimination Act. All inmates have a right to be safe and free from sexual harassment and sexual assaults.

Modifications and Disputes

Either party may initiate a request for modification to this Agreement in writing. All modifications negotiated will be effective only upon written approval of both parties.

Disputes, questions, or concerns pertaining to this Agreement will be resolved between appropriate officials of each county. Both the counties agree that they will use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

Inspection of Services

The Hudson County agrees to allow periodic and routine inspections of the facility by Mercer County Inspectors. These inspections shall occur not less than on a quarterly basis, or in the event of an emergency and or incident involving Mercer County Inmate(s). Findings of the inspection will be shared with the facility administrator in order to promote improvements to facility operations, conditions of confinement, and levels of services.

ICE Detention

Mercer County Inmates shall not be housed with or co-mingled with any ICE detainees.

Mercer Inmate Penal Counselor

Mercer County Inmate Supervisor Penal Counselor shall have access to all Mercer County Inmates being housed in Hudson County. Hudson County Penal Counselors shall work with Mercer Penal Counselors in resolving complaints, grievances, or any other social service concern.

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-002219-19

Case Caption: KRAKORA JOSEPH VS COUNTY OF MERCER

Case Initiation Date: 11/19/2019

Attorney Name: FLETCHER C DUDDY

Firm Name: OFFICE OF THE PUBLIC DEFENDER
SPECIAL HEARINGS UNIT

Address: 25 MARKET STREET PO BOX 850
TRENTON NJ 086250850

Phone: 6092927677

Name of Party: PLAINTIFF : Krakora, Joseph, E

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Document Type: Verified Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO

Title 59? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

11/19/2019
Dated

/s/ FLETCHER C DUDDY
Signed

